



BANGLADESH
COUNTRY REPORT
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Country Information & Policy Unit

IMMIGRATION & NATIONALITY DIRECTORATE
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CONTENTS	
<u>1. Scope of Document</u>	1.1 - 1.7
<u>2. Geography</u>	2.1 - 2.3
<u>3. Economy</u>	3.1 - 3.3
<u>4. History</u>	4.1 - 4.45
Pre-independence: 1947 – 1971	4.1 - 4.4
1972 – 1982	4.5 - 4.8
1983 – 1990	4.9 - 4.14
1991 – 1999	4.15 - 4.26
2000 – the present	4.27 - 4.45
<u>5. State Structures</u>	5.1 - 5.51
<u>The constitution</u>	5.1 - 5.3
- <u>Citizenship and Nationality</u>	5.4 - 5.6
<u>Political System</u>	5.7 - 5.13
<u>Judiciary</u>	5.14 - 5.21
<u>Legal Rights /Detention</u>	5.22 - 5.30
- <u>Death Penalty</u>	5.31 - 5.32
<u>Internal Security</u>	5.33 - 5.34
<u>Prisons and Prison Conditions</u>	5.35 - 5.37
<u>Military Service</u>	5.38
<u>Medical Services</u>	5.39 - 5.45
<u>Educational System</u>	5.46 - 5.51
<u>6. Human Rights</u>	6.1- 6.107
<u>6.A Human Rights Issues</u>	6.1 - 6.53
<u>Overview</u>	6.1 - 6.5
<u>Torture</u>	6.6 - 6.7
<u>Politically-motivated Detentions</u>	6.8 - 6.9
<u>Police and Army Accountability</u>	6.10 - 6.13
<u>Freedom of Speech and the Media</u>	6.14 - 6.23
<u>Freedom of Religion</u>	6.24 - 6.29
<u>Hindus</u>	6.30 - 6.35
<u>Ahmadis</u>	6.36 - 6.39
<u>Christians</u>	6.40
<u>Freedom of Assembly and Association</u>	6.41
<u>Employment Rights</u>	6.42 - 6.47
<u>People Trafficking</u>	6.48 - 6.50
<u>Freedom of Movement</u>	6.51 - 6.52
<u>Authentication of Documents</u>	6.53
<u>6.B Human Rights – Specific Groups</u>	6.54 – 6.85
<u>Ethnic Groups</u>	
<u>Biharis</u>	6.54 - 6.60
<u>The Tribals of the Chittagong Hill Tracts</u>	6.61 - 6.64
<u>Rohingyas</u>	6.65 – 6.66
<u>Women</u>	6.67 - 6.71
<u>Rape</u>	6.72 - 6.73
<u>Acid Attacks</u>	6.74
<u>Children</u>	6.75 - 6.80
- <u>Child Care Arrangements</u>	6.81 – 6.84
<u>Homosexuals</u>	6.85

<u>6.C Human Rights – Other Issues</u>	6.86 – 6.89
<u>Prosecution of 1975 Coup Leaders</u>	6.86 - 6.89
<u>Annex A: Chronology of Events</u>	
<u>Annex B: Political Organisations</u>	
<u>Annex C: Prominent People</u>	
<u>Annex D: References to Source Material</u>	

1. SCOPE OF DOCUMENT

1.1 This Country Report has been produced by the Country Information and Policy Unit, Immigration and Nationality Directorate, Home Office, for use by Home Office officials involved in the asylum / human rights determination process. The Report provides general background information about the issues most commonly raised in asylum / human rights claims made in the United Kingdom. It is not a detailed or comprehensive survey.

1.2 The Report is compiled from a wide range of recognised sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to original source material, which has been made available to those working in the asylum / human rights determination process. The Report aims to provide only a brief summary of the source material quoted. For a more detailed account, the relevant source documents should be examined directly.

1.3 The information contained in this Country Report is, by its nature, limited to information that we have been able to identify from various well-recognised sources. The contents of this Report are not exhaustive and the absence of information under any particular heading does not imply that any analysis or judgement has been exercised to exclude that information, but simply that relevant information on the subject has not been identified from the sources that have been consulted. Equally, the information included in the Reports should not be taken to imply anything beyond what is actually stated.

1.4 The great majority of the source material is readily available in the public domain. Copies of other source documents, such as those provided by government offices, may be provided upon request.

1.5 All sources have been checked for currency, and as far as can be ascertained, contain information which remained relevant at the time this Report was issued. Some source documents have been included because they contain relevant information not available in more recent documents.

1.6 This Country Report and the accompanying source material are publicly disclosable. Where sources identified in this Report are available in electronic form the relevant link has been included. The date that the relevant link was accessed in preparing the report is also included. Paper copies of the source documents have been distributed to nominated officers within IND.

1.7 It is intended to revise this Report on a six-monthly basis while the country remains within the top 35 asylum producing countries in the United Kingdom. Information contained in Country Reports is inevitably overtaken by events that occur between the 6 monthly publications. Caseworkers are informed of such changes in country conditions by means of Country Information Bulletins.

[Return to contents](#)

2. GEOGRAPHY

2.1 Located in south Asia, the People's Republic of Bangladesh is bordered almost entirely by India, except for a small frontier in the Southeast with Burma and the coastline along the Bay of Bengal in the south. The capital is Dhaka. There remain some areas where the exact border with India is disputed. [1b]

2.2 Covering almost 57,000 square miles of land, Bangladesh has an estimated population of 128,100,000 [1b] and is one of the world's most densely populated countries. [3c] According to the 1991 census the four largest cities were Dhaka (3.6 million people), Chittagong (1.5 million), Khulna (over 600,000) and Rajshahi (nearly 325,000). [1a] 89% of the population are located in the countryside. [3c] Bengalis comprise 98% of the country's population, with the remaining 2% comprising 250,000 Biharis and less than 1 million tribals. The 1981 census classified 86.6% of the population as Muslims, 12.1% as caste Hindus and scheduled castes, and the remainder as Buddhists, Christians and tribals. In 1988, Islam was established as the state religion. [1b]

2.3 The state language is Bangla and is spoken by about 95% of the population. [1b] Biharis speak Urdu, and the tribal populations in the Chittagong Hill Tracts use various dialects. English is also used in commerce and administration. [3a]

For further information on Geography, refer to Europa World Year Book 2002, Volume 1 (source 1a)

[Return to contents](#)

3. ECONOMY

3.1 According to the U.S. Department of State Report 2003 "The country had a primarily agricultural and market-based economy...The Government owned most utility companies, many transport companies, and many large manufacturing and distribution firms. The projected economic growth rate for the fiscal year was 5.2 percent, which fell short of the estimated 7 percent needed to reduce significantly the poverty that afflicts 30 percent of the population. Wages and benefits have kept pace with the relatively low rate of inflation. Economic conditions in the country were primarily impacted by a multitude of structural weaknesses the Government had not adequately addressed, and general strikes, often politically motivated, took a heavy toll on the economy. Efforts to improve governance through reform were largely unsuccessful, and often blocked by bureaucratic intransigence, vested economic interests, endemic corruption, and political polarization." [2c] (p1)

3.2 The country is plagued with corruption and half the population lives below the United Nations poverty line. Rates of malnutrition and per capita income are amongst the worst in Asia. It is estimated that around a third of the 70 million workforce is unemployed. [20]

3.3 The approximate rate of exchange on 1 March 2004 was £1 = 109 Bangladesh taka. [22]

[Return to contents](#)

4. HISTORY

Pre-independence: 1947 - 1971

4.1 Present-day Bangladesh was originally one of the five provinces comprising Pakistan, created following the partition of the Indian sub-continent in August 1947. Known as East Pakistan, the province was formed from the former Indian province of East Bengal and the Sylhet district of Assam. [1a]

4.2 East Pakistan became dissatisfied with the distant central government in West Pakistan, and the situation was exacerbated in 1952 when Urdu was declared Pakistan's official language. Discontent continued in the eastern wing, mainly due to under representation in the administration and armed forces. The leading political party of East Pakistan, the Awami League (AL), subsequently demanded autonomy from the West. [1a]

4.3 A general election in December 1970 gave the AL an overwhelming victory in the East and thus a majority in Pakistan's National Assembly. The AL decided that the province should unilaterally secede from Pakistani and on 26 March [1971] Sheikh Mujib proclaimed the independence of the People's Republic of Bangladesh ('Bengal Nation'). Civil war immediately broke out. [1a]

4.4 Resistance continued from the Liberation Army of East Bengal (the Mukti Bahini), a group of irregular fighters who launched a major offensive in November 1971. As a result, an estimated 9.5 million refugees crossed into India. On 4 December 1971 India declared war on Pakistan, with Indian forces supporting the Mukti Bahini. Pakistan surrendered to the allied forces of Bangladesh and India on 16 December 1971 and Bangladesh achieved its independence, quickly achieving international recognition. [1a]

[Return to contents](#)

1972 - 1982

4.5 Sheikh Mujibur became Bangladesh's first Prime Minister in January 1972. A general election for the country's first parliament ('Jatiya Sangsad') was held in March 1973: the AL won 292 of the 300 directly elective seats. Internal stability was however threatened by opposition groups resorting to terrorism. [1a]

4.6 In January 1975, a presidential government and one-party rule replaced the parliamentary government; Sheikh Mujibur became President, assuming absolute power. [1a] However, Mujibur and members of his family were assassinated in a right wing coup (led by Islamist army officers) in August 1975. Martial law was then declared and political parties banned. A subsequent counter-coup on 3 November 1975 brought Khalid Musharaf, a pro-Indian commander of the Dhaka garrison, to power. This proved to be extremely short-lived, as a third coup on 7 November 1975 overthrew Musharaf and power was assumed under a neutral non-party government, with Major General Ziaur Rahman (General Zia) taking precedence. [1a]

4.7 Political parties were again legalised in July 1976. General Zia assumed the presidency in April 1977. In the parliamentary elections of February 1979, Zia's Bangladesh Nationalist Party (BNP) won 207 of the 300 directly elective seats in the Jatiya Sangsad. A new Prime Minister was appointed in April 1979, and martial law repealed. The state of emergency was revoked in November 1979. [1a]

4.8 Zia was assassinated on 30 May 1981, during an attempted military coup. Political instability ensued and Vice President Abdus Sattar was nominated President. Sattar (finding it difficult to retain civilian control) formed a National Security Council in January 1982, led by Chief of the Army Staff, Lieutenant-General Hossain Mohammad Ershad. On 24 March 1982 Ershad seized power in a bloodless coup. Martial law was again declared, with Ershad as Chief Martial Law Administrator (although in October 1982 Ershad changed his title to Prime Minister), aided by a military Council of Advisers. [1a]

[Return to contents](#)

1983 - 1990

4.9 Although the government's economic policies achieved some success, increasing demands for a return to democracy ensued throughout 1983. The two principal opposition groups that emerged were an eight-party alliance, headed by a faction of the AL under Sheikh Hasina (daughter of the late Sheikh Mujibur) and a seven-party group, led by a faction of the BNP under former President Sattar and Begum Khaleda Zia (widow of General Zia). In September 1983 the two groups formed an alliance: the Movement for the Restoration of Democracy. In November 1983, permission was given for the resumption of political activity and a new political party, the Jana Dal (People's Party) was formed to support Ershad as a presidential candidate. Ershad declared himself President on 11 December 1983. [1a]

4.10 In January 1985 a new Council of Ministers was formed, composed almost entirely of military officers and excluding all members of the Jana Dal (in response to the opposition parties' demands for a neutral government during the pre-election). However, President Ershad refused to relinquish power to an interim government. The National Front (NF), a new five-party political alliance, (comprising the Jana Dal, the United People's Party, the Gonotantrik Party, the Bangladesh Muslim League and a breakaway section of the BNP) was established in September 1985 to promote government policies. [1a]

4.11 The ten-month ban on political activity was lifted in January 1986, and the NF formally became a single pro-government entity: the Jatiya Party (National Party). Although smaller opposition parties participated in the parliamentary elections in May 1986 the elections were boycotted by the BNP. The Jatiya Party won 153 of the 300 directly elective seats in the Jatiya Sangsad. Mizanur Rahman Chowdhury, the former General-Secretary of the Jatiya Party, was appointed Prime Minister in July 1986. [1a]

4.12 Ershad joined the Jatiya Party in September 1986, being elected as chairman of the party. In the presidential election of October 1986 (which was boycotted by both the BNP and AL) Ershad received 22 million votes. In November 1986, the Jatiya Sangsad approved indemnity legislation (legalising the military regime's actions since March 1982). Ershad then repealed martial law and formed a new Council of Ministers,

including four MPs from the AL. [1a]

4.13 Dissension from the opposition continued throughout 1987 and President Ershad declared a nation-wide state of emergency on 27 November of that year. In December 1987, after twelve opposition members had resigned and the 73 AL members had agreed to do likewise, Ershad dissolved the Jatiya Sangsad. The Jatiya Party won a large majority of seats in the parliamentary elections of 3 March 1988. Later that month, Moudud Ahmed, an ally of Ershad, was appointed Prime Minister. Ershad repealed the state of emergency in April 1988. [1a]

4.14 Violence, anti-government demonstrations and strikes occurred throughout the country in 1990. Ershad re-proclaimed a state of emergency on 27 November 1990, and later resigned on 4 December 1990, simultaneously revoking the state of emergency (again), and dissolving the Jatiya Sangsad. The newly appointed Vice President, Shahabuddin Ahmed, assumed the responsibilities of acting President, and was placed at the head of a neutral caretaker government. In the week following his resignation, Ershad was placed under house arrest. [1a]

[Return to contents](#)

1991 - 1999

4.15 On 27 February 1991, the BNP alliance won an overall majority at the parliamentary elections. Later, following discussion with the Jamaat-e-Islami (JI), the BNP ensured a small working majority in the Jatiya Sangsad, and Begum Khaleda Zia assumed office as Prime Minister. Abdur Rahman Biswas was elected as the new President on 8 October 1991. [1a]

4.16 All opposition members of the Jatiya Sangsad resigned en masse in December 1994. Nonetheless the Prime Minister, with her party's parliamentary majority, pledged to maintain constitutional government. On 24 November 1995, the Prime Minister requested that the Jatiya Sangsad be dissolved pending the outcome of the next general election. Although opposition persisted, Begum Khaleda Zia's administration continued in office in an acting capacity. [1a]

4.17 The general election, postponed until 15 February 1996, was boycotted by all of the main opposition parties. Consequently, the BNP won 205 of the 207 legislative seats declared. However, the opposition refused to recognise the legitimacy of the polls and announced the launch of a non co-operation movement against the government. Finally, the Prime Minister agreed to hold fresh elections under neutral auspices. [1a]

4.18 Begum Khaleda Zia and her government resigned from their posts on 30 March 1996 after making the 13th amendment of the Constitution to ensure a non-party caretaker government would hold the general election, and the Jatiya Sangsad was subsequently dissolved. President Biswas appointed Muhammad Habibur Rahman as acting Prime Minister. Notwithstanding an unsuccessful military coup on 20 May 1996, a further general election was held on 12 June 1996: the AL won 146 of the 300 elective seats in the Jatiya Sangsad. An understanding was rapidly reached between the AL and the Jatiya Party (whose major interest was the release of Ershad). [1a]

4.19 Sheikh Hasina was sworn in as the new Prime Minister on 23 June 1996. Her Council of Ministers incorporated one member from the Jatiya Party and included a number of retired officials and army officers. On 23 July 1996, Shahabuddin Ahmed was elected as Bangladesh's new Head of State. [1a]

4.20 Ex-President Ershad was released from prison on bail in January 1997. The trial of twenty people accused of direct involvement in Sheikh Mujibur's assassination began in March 1997. [1a]

4.21 In December 1997 the AL government signed an historic peace accord to end the insurgency in the Chittagong Hill Tracts. [1a] [4c] Opposition to the treaty from the BNP swiftly ensued. [1a] [4d] However on 10 February 1998 the Shanti Bahini guerrillas formally surrendered their arms to the government, marking an end to the 25-year insurgency. [4e]

4.22 The ruling coalition split on 15 March 1998 when the minority Jatiya Party announced that it was leaving the 'national consensus' government. [5b]

4.23 The BNP returned to the Jatiya Sangsad on 9 March 1998, following the signing of a memorandum of understanding between it and the ruling AL. [5b] However the BNP walked out of the Jatiya Sangsad on 12 April 1998, in protest against four bills concerning the December 1997 Chittagong Hill Tracts Peace Accord. [5c] Nonetheless, the Jatiya Sangsad passed the four bills at the beginning of May 1998. [5d]

4.24 A new anti-government alliance was formed on 20 December 1998 between Begum Khaleda Zia's BNP and the leaders of the Jamaat-e-Islami and the Jatiya Party (the latter had initially supported the AL government after the June 1996 election). It had been reported earlier on 15 December 1998 that the Jatiya Party had linked up with seven smaller parties to agitate against the government. [5g]

4.25 Two bombs exploded at a music and culture festival in the town of Jessore on 6 March 1999, killing at least eight people and injuring some 150 others. The president of the group organising the festival (the Udichi Shilpi Gosthi) blamed the bombing on Islamic fundamentalists. [5a]

4.26 General Ershad was prevented from leaving the country in November 1999. This came the day after his Jatiya Party counterpart and former Prime Minister Kazi Zafar Ahmed was sentenced in absentia to fifteen years imprisonment for corruption. Ershad's conviction for corruption was under appeal at the time. [20c]

[Return to contents](#)

2000 – the present

4.27 In July 2000 twenty-four people were charged with the March 1999 Jessore bombing, including a former opposition MP. Police suspected a link between the bombing and the murder of prominent investigative journalist Shamsur Rahman the same month. Rahman had exposed the link between organised crime and politics, and police suspected that his murder was a bid to intimidate witnesses in the bombing case. [20d]

4.28 The ruling Awami League began a campaign against the Jamaat-e-Islami's student wing - the Islami Chhatra Shibir - following the murder of eight pro-AL students in Chittagong in July 2000. [4b] Following this there was an attempt on the Prime Minister's life, when a bomb was detected accidentally near Kotalipara a day ahead of her scheduled visit. Ruling party leaders were quick to associate the BNP-led opposition with the incident. [12d]

4.29 There were violent clashes in February 2001 following the arrest of radical Muslim leader Maulana Azizul Haq of the hard line Islami Oikya Jote (IOJ) party, who was charged with the murder of a policeman during a general strike called by the Islamic parties. The violence followed a court ruling banning Islamic edicts (or fatwas). [20f] In the same month in Dhaka four people and a policeman were killed and dozens wounded in violence between ruling party and opposition activists during a general strike. [20g]

4.30 On 15 July 2001 a caretaker government was sworn in to organise new elections, following a violent two-day transition in which twelve people were killed. Former chief justice Latifur Rahman was appointed to head the interim administration, following the first time the country's assembly had served out a full five-year term. [10]

4.31 In late September 2001, a bomb blast in Dhaka killed at least eight members of the Awami League as the hostile atmosphere in the run up to the general election heightened. In response to the escalating tension the caretaker government deployed more than 50,000 troops to quell the violence. [20h]

4.32 The general election proceeded on 1 October 2001, although voting was suspended in several constituencies owing to violence. [1a] The entire election campaign had been characterised by violence. At least 140 people were killed in feuding between the AL and BNP, while six died on the polling day. [5f] As noted in the U.S. Department of State report 2003 "Domestic and international observers deemed the eighth general election held in 2001 to be generally free and fair, despite sporadic violence and isolated irregularities; post-election violence was widespread." [2c] (p14)

4.33 The results of the general election of 1st October 2001 were as follows:

Bangladesh Nationalist Party	193
Awami League	62
Jamat-e-Islami	17
Islami Jatio Oikky Front	14
Bangladesh Jatio Party (N-F)	4
Islamic Oikky Jote	2
Jatio Party (Manju)	1
Others	7

[16]

The winning coalition consisted of the BNP, the Jamat-e-Islami, the Bangladesh Jatio Party (N-F) and the Islamic Oikky Jote. [1a]

4.34 On 10 October 2001, Begum Khaleda Zia was sworn in as Prime Minister. At the end of October 2001, the newly elected members of parliament representing the opposition AL took oath of office, but refused to join the opening session of the Jatiya Sangsad in continuing protest against what they considered a rigged election. [1a] Sheikh Hasina announced that the newly elected AL members would continue to boycott the Jatiya Sangsad (the unicameral legislature) until the new coalition government stopped its "repression" of AL members and minority communities. [5f]

4.35 On 21 June 2002, President Bardruddoza Chowdhury, who had been elected President on 14 November 2001, resigned under pressure from the ruling BNP after he had failed to visit the grave of Maj-Gen Ziaur Rahman on the anniversary of the latter's assassination in 1981. Rahman was the husband of the present BNP Prime Minister Khaleda Zia and the founder of the ruling BNP. The AL opposition and other observers regarded Chowdhury's resignation as unconstitutional. [5a] On 5 September 2002, Iajuddin Ahmed, a retired professor from Dhaka University, was elected the new president. [20s]

4.36 On 30 August 2002, a convoy of cars carrying Sheikh Hasina came under fire. The AL spokesman blamed the BNP Government for the attack. [20r]

4.37 The Government of Prime Minister Khaleda Zia, facing criticism for the rising wave of crime and deteriorating law and order in the country, launched "Operation Clean Heart" on 17 October 2002. [7e] Operation Clean Heart involved national deployment of nearly 40,000 soldiers, in all the major cities, to help the authorities restore law and order, arrest "listed criminals" and recover illegal firearms. [20w] [20x] [20y] [21c] Several members of the ruling Bangladesh Nationalist Party and the opposition Awami League were detained for their alleged links with criminals. [20w] [7e]

4.38 On 9 January 2003, Bangladeshi authorities ordered a partial pull out of soldiers and ordered the troops to return to their barracks. However, soldiers remained in six towns and cities, including Dhaka and Chittagong, to assist the civilian administrations if required. [20z] On 19 February 2003, the Government again confirmed redeployment of the army in six divisional headquarters to assist law enforcement agencies in combating crime. [21a] This time, the operation was on a smaller scale and the army was instructed not to arrest any suspects but to hand the criminals over to the police. [20ab]

4.39 During Operation Clean Heart, more than 11,000 people were arrested, including 2,500 listed criminals and members of Prime Minister Khaleda Zia's BNP and the opposition, hundreds of weapons were seized, and 40 people died after soldiers detained them. [20z] [20y] [20ab] [11e]

4.40 On 9 January 2003, President Iajuddin Ahmed signed an order granting the soldiers legal immunity with immediate effect. [20y] President Ahmed said the government regretted the deaths, but had no alternative to rewarding the soldiers who had helped the authorities restore law and order. [20x] Amid angry protests by the opposition, in February 2003, the Bangladesh Parliament passed the controversial indemnity bill titled, "Joint Drive Force Indemnity Ordinance 2003" to give legal protection to the army-led anti-terrorism operation. The Law Minister Mr Ahmed

announced that the indemnity would protect the members of the armed forces from facing the civil justice system. At the same time, they would remain under the purview of their own laws. [21b]

4.41 On 12 March 2003, following a series of bomb attacks in the city of Khulna, the police arrested almost 200 people for questioning. [20v] On 12 March 2003, police arrested five members of the hard line Islamist group Jamaat ul-Mujahideen who were suspected of a number of explosions in the country. [20u]

4.42 Staggered polls for local elections to 4,267 local councils took place from late January to 16 March 2003. The elections were officially held on a non-party basis, but political parties indirectly nominated candidates to ensure a foothold at grass roots level. A total of 198,704 candidates contested the local council seats, including 42,250 women vying for 2,684 seats reserved for them. [15] The local elections were violent and by 17 February 2003, at least 25 people had reportedly been killed. [20aa]

4.43 On 25 August 2003, the president of the AL in the city of Khulna was shot dead. The banned left-wing Purbo Banglar Communist Party (Janajuddha) claimed responsibility. The killing sparked a riot by AL supporters who attacked offices of the ruling BNP. The BNP denied any responsibility and ministers condemned the killing. [20n] Also in late August 2003, unidentified assailants killed another AL leader, this time in Dhaka. Police said they considered the shooting to be a criminal act caused by what they called business rivalries. [20j] A bomb attack in Khulna on the offices of the AL in September 2003 killed another AL party leader and injured 10 other people. [20k]

4.44 A BBC News report on 13 January 2004 stated that “Bangladesh police have held 24 people for questioning following a bomb attack on a shrine in the city of Sylhet on Monday that killed three people. The bomb, which injured around 30, went off during a festival at the shrine of Muslim saint Hazrat Shah Jalal...No one has admitted the attack and authorities have launched an investigation.” [20e]

4.45 A news from Agence France Presse on 31 January 2004 stated that “Bangladesh’s main opposition Awami League party called Saturday for a general strike in the crime-prone southwestern Khulna district where three local politicians have been killed in as many days. A party spokesman said the one-day strike, called for February 7 [2004] in Khulna city, was intended to protest the killing of one of its local leaders...Two local leaders of the ruling Bangladesh Nationalist Party (BNP) were also been [sic] killed in Khulna last week”. [23e]

For further details on history, please refer to Europa World Year Book 2002, Volume 1 (source 1a)

[Return to contents](#)

5. STATE STRUCTURES

The Constitution

5.1 A new Constitution for the People's Republic of Bangladesh came into effect on 16 December 1972. The 1972 Constitution based its fundamental principles on

nationalism, socialism, democracy and secularism. The Constitution aimed to establish a society free from exploitation in which the rule of law, fundamental human rights and freedoms, justice and equality were to be secured by all citizens. [1a]

5.2 All citizens are equal before the law and have a right to its protection. Arbitrary arrest or detention, discrimination based on race, age, sex, birth, caste or religion, and also forced labour are all prohibited under the Constitution. Subject to the law, public order and morality, every citizen has freedom of movement, assembly and association. The constitution also aims to guarantee freedom of conscience, speech, press and religious worship. [1a]

5.3 The Constitution was amended in 1977 to substitute Islam for secularism. A further amendment in 1988 established Islam as the state religion. In August 1991 the Jatiya Sangsad approved an amendment, ending sixteen years of presidential rule and restoring the prime minister as executive leader (under the previous system both the prime minister and the Council of Ministers were answerable to the president). Apart from the Ershad-imposed period of martial law from 24 March 1982 until 10 November 1986, the Constitution has remained in place. [1a]

[Return to contents](#)

Citizenship and Nationality

5.4 The Bangladesh Citizenship (Temporary Provisions) Order 1972 introduced the citizenship laws after the country's independence. Article 2 of the Order stipulates that anyone who was born in territories now comprised in Bangladesh or whose father or grandfather was born in these territories and who was a permanent resident in these territories on the 25th March 1971, and continues to be resident, is deemed to be a Bangladeshi citizen. [18a] According to Article 2A, a person to whom the above article applies but who is resident in the United Kingdom shall be deemed to continue to be permanent resident of Bangladesh. The Government may notify, in the official Gazette, any person or categories of persons to whom this Article shall not apply. [18a]

5.5 Any person who owes, affirms or acknowledges, expressly or by conduct, allegiance to a foreign state, or is notified under the provisions of Article 2A, does not qualify for Bangladeshi citizenship. [18a] The Government may grant citizenship of Bangladesh to any person who is a citizen of any state in Europe, North America or Australia or any other state. [18b]

5.6 The Government will consider an application for citizenship from an applicant who is a foreign woman and married to a Bangladeshi citizen and has resided in Bangladesh for 2 years, or from an applicant who has resided in Bangladesh for a period of 5 years. [18b]

[Return to contents](#)

POLITICAL SYSTEM

Government

5.7 As stated in the U.S. Department of State Report 2003 “The country is a multiparty, parliamentary democracy in which elections by secret ballot are held on the basis of universal suffrage.” [2c] (p14) Jatiya Sangsad (Parliament) is a unicameral legislature and

serves a five-year term, subject to dissolution. Members of the Jatiya Sangsad are directly elected on the basis of universal adult franchise from single territorial constituencies. Persons aged eighteen and over are entitled to vote. [1a]

5.8 The U.S. Department of State Report 2003 notes that “Bangladesh is a parliamentary democracy, with broad powers exercised by the Prime Minister. Khaleda Zia, leader of the Bangladesh Nationalist Party (BNP), became Prime Minister (PM) following parliamentary elections in October 2001, deemed to be free and fair by international and domestic observers. The BNP formed a four-party alliance government with Jamaat-e-Islami (JI), Bangladesh Jatiya Party (BJP), and Islami Oikko Jote (IOJ). Two major parties dominate the political scene, the BNP and the Awami League (AL). Political competition is vigorous, and violence is a pervasive feature of politics.” [2c] (p1)

5.9 Jatiya Sangsad comprises 300 members who are elected by universal suffrage from the designated constituencies. Originally Article 65(3) of the Constitution provided for 15 reserved seats for female members of parliament for a 10-year period. The elected MP’s elected the female members. In 1978, a Martial Law proclamation increased the number of reserved seats for females to 30 and extended the tenure of the seats to 15 years. A 1990 amendment further extended this provision for another 10 years, to the year 2000. With the dissolution of the 7th Jatiya Sangsad in 2001, the provision of reserved seats for female members of parliament came to an end. [11d]

5.10 However, a BBC News report of 14 January 2004 noted that “The governing coalition in Bangladesh has agreed to expand the country’s parliament and set aside more seats for women. Currently there are only a handful of women MPs in Bangladesh, a country of 130 million people. The decision came at a meeting of the leaders of the four parties in the coalition, chaired by the Prime Minister, Khaleda Zia. A spokesman for the alliance, Abdul Manna Bhuiyan, told reporters after the meeting that 100 more general seats would be added to the parliament, which now has 300 members. Fifty seats would be reserved for women, which Mr Bhuiyan said fulfilled a promise made by the alliance before the election. Women’s rights activists say that...while the latest announcement is a step in the right direction, it does not allow women to be directly elected to parliament. Instead it says the extra women MPs will be allocated seats according to the overall strength of each party in the legislature. Mr Bhuiyan said that the possibility of direct elections for women to parliament would be further discussed in the cabinet. He said that he hoped the government would also be able to honour its manifesto commitment to expand the Bangladesh parliament so that it could accommodate 500 MPs.” [20a]

[Return to contents](#)

Supervision of Elections

5.11 Under a 1996 constitutional amendment, general parliamentary elections are presided over by a caretaker government, led by the most recently retired Chief Justice of the Supreme Court. An Election Commission supervises elections for the presidency and Jatiya Sangsad. The Commission also delimits constituencies and prepares electoral rolls. It consists of a Chief Election Commissioner and other commissioners, as appointed by the President. The Election Commission is independent in the exercise of its functions. [1a]

5.12 The Bangladesh Election Commission announced in April 1999 that it would issue identity cards to all voters. The secretary of the Commission said that some 60 million eligible voters will be issued with identity cards in the next election, and that ID cards would also have to be produced to obtain passports, travel documents, driving licences and for buying or selling land. [4h]

5.13 Following the October 2001 general election the defeated Awami League boycotted parliament amid claims of massive vote rigging. The Chief Election Commissioner dismissed these claims as "baseless", with internal and international monitors also insisting that the polling was free and fair. [20j]

[Return to contents](#)

Judiciary

5.14 According to the U.S. Department of State Report 2003 "The Constitution provides for an independent judiciary; however, under a longstanding "temporary" provision of the Constitution, the lower courts remained part of the executive and were subject to its influence. The higher levels of the judiciary displayed a significant degree of independence and often ruled against the Government in criminal, civil, and even politically controversial cases. However, there was corruption within the legal process, especially at lower levels." [2c] (p7)

5.15 As stated in the U.S. Department of State Report 2003 "The court system has two levels: the lower courts and the Supreme Court. Both hear civil and criminal cases. The lower courts consist of magistrates, who are part of the executive branch of the Government, and session and district judges, who belong to the judicial branch... The Supreme Court is divided into two sections: the High Court and the Appellate Court. The High Court hears original cases and reviews cases from the lower courts. The Appellate Court has jurisdiction to hear appeals of judgments, decrees, orders, or sentences of the High Court. Rulings of the Appellate Court are binding on all other courts...The law provides the accused with the right to be represented by counsel, to review accusatory material, to call witnesses, and to appeal verdicts. Trials are public." [2c] (p8)

5.16 In September 1996 the government established an "expert committee" within the law ministry to develop proposals to further separate the judiciary from the executive. [3e] As noted in the U.S. Department of State Report 2003 "In 2001, the Supreme Court reaffirmed a 1997 High Court order to separate the judiciary from the executive. The ruling declared which elements of the 1997 order could be implemented without constitutional amendment and ordered the Government to implement those elements within 8 weeks. On May 26 [2003], the Supreme Court granted the Government its 15th extension for implementation of its directives, and on November 18 [2003] extended the deadline by another 4 months. Law Minister Moudud Ahmed commented that implementation would take more than 6 to 7 years." [2c] (p8)

5.17 As stated in the U.S. Department of State Report 2003 "A major problem of the court system was the overwhelming backlog of cases, and trials underway typically were marked by extended continuances while many accused persons remained in

prison. These conditions and the corruption encountered in the judicial process effectively prevented many persons from obtaining a fair trial. Transparency International estimated that more than 60 percent of the persons involved in court cases paid bribes to court officials.” [2c] (p8)

5.18 Under the Constitution all citizens are equal before the law and have a right to its protection. [1a] The High Court Division of the Supreme Court is responsible for enforcing the fundamental rights guaranteed by the Constitution, including the right to equality before the law. Thus, for enforcement of rights pertaining to human security under the Constitution, one has to go to the High Court. However, because of the high costs involved, the poor and the vulnerable sections of society seldom access the legal process and ultimately the benefits of the fundamental rights conferred by the Constitution. [8b]

[Return to contents](#)

Informal Systems of Justice, and Village Courts

5.19 According to a recent report by the United Nations Development Programme, about two-thirds of disputes do not enter the formal court process, instead they are either settled at a local level either by local leaders or a village court, or they remain unsettled. Local dispute-resolution mechanisms cover both civil and criminal cases. The Salish (or informal) local mediation councils provide a traditional alternative to dispute resolution and comprise local leaders who either individually or in groups provide a forum for discussion and dispute resolution. The officials of village courts are usually the chairman and members of Union Parishad or the Local Government, who are powerful members of the local community. The village courts can be open to outside influences. The main sources of influence are local political leaders, community leaders, wealthy people and other influential individuals in the village. Women and the poor particularly favour this system because they feel comfortable about easy access to the resolution process. [8b]

Fatwas

5.20 Muslim clerics (including unqualified religious men) often issue Islamic edicts (or fatwas) on family disputes, whereby punishments vary from public naming and shaming to physical mutilation, flogging, stoning, and shaving of heads. [20g] [7d] Only those Muftis (religious scholars) who have expertise in Islamic law can issue fatwas. Fatwas commonly deal with marriage, divorce, or mete out punishments for perceived moral transgressions. Most fatwas are issued in rural areas and against women. [7d] As stated in the U.S. Department of State Report 2003 “In 2001, the High Court ruled illegal all fatwas, or expert opinions on Islamic law. While the Court’s intention was to end the extrajudicial enforcement of penalties by religious leaders, the 2001 ruling, which generated violent protests, declared all fatwas illegal. Several weeks later, the Appellate Court stayed the High Court’s ruling.” [2c] (p12)

[Return to contents](#)

Alternative Dispute Resolution (ADR)

5.21 According to the U.S. Department of State Report 2003 “Due to the judicial

Bangladesh April 2004

system's million-case backlog, the Ministry of Law in 2001 initiated a pilot program offering Alternative Dispute Resolution (ADR) in some civil cases. Citizens have the opportunity for their cases to be mediated by persons with a background in law before filing their cases. According to government sources, wider use of mediation in civil cases has quickened the administration of justice. In February [2003], the Government approved draft legislation, and in July [2003], Parliament codified the use of ADR and extended its use to Sylhet and Chittagong.” [2c] (p8)

Legal Rights / Detention

5.22 The U.S. Department of State Report 2003 confirms that “The Constitution provides that each person arrested shall be informed of the grounds for detention, provided access to a lawyer of his or her choice, brought before a magistrate within 24 hours, and freed unless the magistrate authorizes continued detention. However, the Constitution specifically allows preventive detention, with specified safeguards, outside these requirements. In practice, authorities frequently violated these constitutional provisions, even in non-preventive detention cases.” [2c] (p5)

Preventive Detention and its Legislative Framework

5.23 As recounted in the U.S. Department of State Report 2003 “The Government arrested and detained persons arbitrarily, and used the Special Powers Act (SPA) and Section 54 of the Code of Criminal Procedure (CrPC), which allowed for arrest without a warrant and preventive detention. In 2002, the Government replaced the Public Safety Act (PSA), which lacked bail provisions, with the Speedy Trial Act (STA), which provided for quicker disposal of cases and bail.” [2c] (p2)

5.24 Section 107 of CCP [Code of Criminal Procedure] permits preventive detention when the authorities deem there is strong likelihood of public disorder. Section 54 of CCP authorises any police officer to arrest "without an order from a magistrate or without a warrant.... any personconcerned in any cognisable offence, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been so concerned". Section 54 of the CCP lays down certain procedures to be observed once an arrest has been made. This includes that the accused must be produced before a magistrate within 24 hours, and that a magistrate must give prior permission if police want to hold a prisoner for longer. However, it is reported that despite these safeguards, Section 54 effectively allows the police to arrest anyone at any time for almost any reason, and is one of the most easily abused provisions in the Bangladesh legal system. [3r] The U.S. Department of State Report 2003 confirms that “On July 6, the Government amended the CrPC to provide for deduction of the period an accused served in jail from the term of imprisonment ultimately decided by the court.” [2c] (p7)

The Special Powers Act (SPA)

5.25 The Special Powers Act (SPA) of 1974 gives the government sweeping powers to detain any person for an initial period of up to 30 days without a formal charge or specific complaint, to prevent him or her performing a ‘prejudicial act’. A prejudicial act

is broadly defined as "any act... likely to prejudice... the sovereignty and defence of the country, national security, public order or the economic or financial interests of the state". [3f] The present Government (BNP) has pledged to repeal the SPA but continues to detain people under this law. [7h] According to a UN report, the SPA is the most favoured legal instrument of the Executive to detain criminals as well as political opponents. [8b]

5.26 According to an Amnesty International Report entitled "Urgent need for legal and other reforms to protect human rights" dated May 2003 "Each year, thousands of people are arbitrarily detained under administrative detention laws which deny them access to judicial remedies. The most commonly used of these laws is the Special Powers Act, 1974 (SPA). The SPA overrides safeguards against arbitrary detention in excess of 24 hours in Bangladeshi laws. It allows the government not only to detain anyone without having to justify the detention before a court, but also to keep the detainee in prison initially for up to four months or, in certain cases, indefinitely, without charge." [7a] (p2)

5.27 Although the SPA provides detainees with limited safeguards against prolonged detention and arbitrary arrest, in practice the grounds for detention are often very vague. [3f] As stated in the U.S. Department of State Report 2003 "The magistrate must inform the detainee of the grounds for detention within 15 days, and the Ministry of Home Affairs must agree with the grounds presented for detention within 30 days or release the detainee. The Government does not have to charge the detainee with a statutory crime. In practice, detainees sometimes were held for longer periods. Detainees may appeal their detention, and the Government may grant early release... Detainees are allowed to consult with lawyers, although usually not until a charge is filed; however, they are not entitled to be represented by a lawyer before an advisory board. Detainees may receive visitors. In the past, the Government has held incommunicado prominent prisoners for extended periods of time. There were no such reports during the year [2003]. Historically, the vast majority of SPA detainees were released on orders from the High Court because the SPA cases were so weak and vague that the court had no alternative but to grant bail." [2c] (p6)

[Return to contents](#)

The Law and Order Disruption Crimes Speedy Trial Act (STA) - 2002

5.28 As stated in the U.S. Department of State Report 2003 "In 2002, Parliament rescinded the Public Safety Act (PSA) enacted by the AL Government in 2000. A week after the repeal of PSA, Parliament passed the Law and Order Disruption Crimes Speedy Trial Act (STA) to remain in force for 2 years if not extended. It contains a provision for the trial in special courts of those accused of certain crimes from 30 to 60 days after arrest. Unlike the PSA, the STA has a bail provision with mandatory recording of the grounds for granting bail. As a safeguard against misuse of the law, it provided punishment for bringing false charges with jail terms from 2 to 5 years. In June 2002, in response to a writ filed by Lalmonirhat Bar Association President Matiur Rahman, charged under the STA, the High Court requested the Government to explain why the STA should not be declared unconstitutional. The case remained pending in the High Court. In general, there were no allegations of widespread misuse of the STA." [2c] (p6-7)

Pre-trial Detention

5.29 As stated in the U.S. Department of State Report 2003 “Lengthy pretrial detention was a problem. [2c] (p2) Pretrial detainees were not held separately from convicted prisoners.” [2c] (p5)

[Return to contents](#)

Safe Custody

5.30 There is a practice of placing women, juveniles and children in "safe custody" in jails or prisons under certain circumstances. Rape victims, child prostitutes, children fleeing abusive homes and witnesses to murder and other serious crimes (if their presence is necessary for a criminal investigation) are among those who can be placed in safe custody. Human rights groups claim that "safe custody" is a form of punishment, and that women are in prison with convicted prisoners and treated as if charged with or convicted of an offence. Human rights groups also argue that there is no basis in law for "safe custody" and for several years activists have been trying to have the practice abolished. [3f]

Death Penalty

5.31 Bangladesh retains the death penalty. After more than three years, the Government resumed executions by hanging 2 men in February 2001. In April 2001, the High Court also upheld the death sentences of the 12 army officers, accused of killing Sheikh Mujibur Rahman and his family. [7g] In June 2003, three people were sentenced to death for the murder of a teenage girl, marking the 30th death sentence handed down by Bangladesh's special courts since they were set up eight months previously. All those convicted by the special courts can appeal to higher courts. According to Amnesty International, at least 87 people were sentenced to death in 2002, although no executions were reported to have been carried out. [23c]

5.32 The Daily Star [of Bangladesh] reported on 11 March 2004 that an execution by hanging was carried out on an offender who had raped and killed a 7-year old girl in 1995. [38c]

Internal Security

5.33 The internal security establishment in Bangladesh consists of the police and four auxiliary forces: the paramilitary Bangladesh Rifles (BDR), the Armed Police, the Ansars and the Village Defence Party. However, it is the police and the two paramilitary forces, the BDR and Ansars, who are primarily responsible for maintaining law and order. The police force is divided into gazetted and subordinate ranks, roughly analogous to commissioned and non-commissioned officers in the military. While the gazetted officers are relatively well trained, well-paid and occupy important positions within the bureaucracy, the lower ranks are relatively poorly trained, poorly equipped, poorly paid and overworked. [3f]

5.34 The U.S. Department of State Report 2003 states that “The civilian authorities maintained effective control of the security forces. The Home Affairs Ministry controls the police and paramilitary forces, which have primary responsibility for internal security. The military, primarily the Army, is responsible for external security but also occasionally has been given domestic security responsibilities.” [2c] (p1)

[Return to contents](#)

Prisons and Prison Conditions

5.35 According to the U.S. Department of State Report 2003 “Prison conditions were extremely poor and were a contributing factor in some custodial deaths. During the year [2003], 90 persons died in custody. All prisons were overcrowded and lacked adequate facilities. Government figures indicated that the existing prison population of approximately 67,354 was nearly 300 percent of the official prison capacity of approximately 25,000. Prison population figures included 1,910 women. There were 276 persons in prison under 18 years of age. Of the entire prison population, 45,173 were awaiting trial, and 21,251 had been convicted. In most cases, cells were so crowded that prisoners slept in shifts. A new prison facility in Kashimpur, north of Dhaka, opened in 2001, although the first phase of construction had not been completed at year's end [2003]. There also were reports of rampant corruption and irregularities in the prisons...Juveniles were required by law to be detained separately from adults; however, due to a lack of facilities, in practice many were incarcerated with adult prisoners. A High Court in April [2003] directed the Government to house accused juveniles apart from other prisoners and to transfer them to correctional homes expeditiously...Women were detained separately from men, but faced the same extremely poor conditions” [2c] (p5)

5.36 The treatment of prisoners is not equal. There are three classes of cells: A, B, and C. Common criminals and low-level political workers are generally held in C cells which often have dirt floors, no furnishings and poor quality food. The use of restraining devices on prisoners in these cells is common. Conditions in A and B cells are markedly better - A cells are reserved for prominent prisoners. [2a]

5.37 As stated in the U.S. Department of State Report 2003 “In general, the Government did not permit prison visits by independent human rights monitors, including the International Committee of the Red Cross (ICRC). Government-appointed committees of prominent private citizens in each prison locality monitored prisons monthly, but did not release their findings. District judges occasionally also visited prisons, but rarely disclosed their findings.” [2c] (p5)

[Return to contents](#)

Military Service

5.38 Conscription does not exist in Bangladesh. The 1952 Bangladesh Army Act does provide for the possible introduction of compulsory military service. There are no known legal provisions for conscientious objection. [13] The voluntary recruitment age is 16 and there are indications that 3% of government armed forces are under 18. [35]

Medical Services

5.39 The Government of Bangladesh has been operating a National Integrated Population and Health Programme (NIPHP), or Health and Population Sector Programme (HPSP) according to WHO [14a], for the period 1998-2003, which targets the reform of the health service. [33] The health policy is directed at improving equity and accessibility to the Essential Services Package (ESP). [14a] Since 1997, USAID has funded the NIPHP employing a network of technical assistance organisations and local NGO's to deliver the Government's ESP. [17]

5.40 A report on poverty in Bangladesh carried out by the World Bank indicates that the poor receive deficient medical care from the public health service and that they are forced to turn to private doctors instead. Public hospitals charge high fees but do not provide the service. Many people reported that they had to buy an entry coupon to enter the hospitals. Furthermore, hospital attendants fail to offer the medicines that should be distributed free of charge. [34]

5.41 Prior to 1957, there were no psychiatric services in Bangladesh. The first mental hospital opened in 1957. At present, mental health care is provided at the primary level by primary care physicians and health workers, at the secondary level by the district hospital, though only one hospital is equipped to provide the services, and at tertiary level by teaching hospitals. [14b] The British High Commission in Dhaka commented in November 2003 "As requested we have made enquiries into the provision of psychiatric care in Bangladesh. We have been advised by doctors working here that there are practising psychiatrists here who trained in the UK. While that standard of care provided in government hospitals is not necessarily fully up to UK standards, most doctors also run high quality private practices where fees are minimal compared with the UK." [11f]

5.42 The Daily Star [of Bangladesh] reported on 3 December 2003 that "About 20,000 people fall victim to end stage renal failure (ESRF) while another 15,000 develop acute kidney failure in the country every year, said nephrologists at a convention yesterday. They said acute kidney failure is [a] largely preventable and curable disease provided appropriate treatment is offered in time. The experts were speaking at the inauguration of a two-day Annual Convention and International CME (Continued Medical Education) organised jointly by Bangladesh Renal Association (BRA) and International Society of Nephrology at a city hotel...The speakers said the [sic] medical science has made remarkable advancement in the field of nephrology and urology which will enable the nephrologists to manage the country's increasing kidney disease more efficiently." [38b]

5.43 According to the UNAIDS website, Bangladesh is a country with low HIV prevalence but high vulnerability. WHO/UNAIDS estimates that the number of HIV positive cases is approximately 13,000. Bangladesh has documented the lowest condom use, very high numbers of clients of sex workers, low knowledge of HIV/AIDS, and extensive needle/syringe sharing by drug users in the region. In spite of this, national commitment to HIV/AIDS prevention and care is high. According to UNAIDS, Bangladesh has the key ingredients for a successful response, a nationwide network of NGOs implementing effective interventions, effective examples of government organisation/NGO collaboration, a sector-wide approach to health with mechanisms for

donor collaboration, an enabling multi-sectoral policy, and a strong commitment from the government as well as civil society. [36]

5.44 In October 2003, it was announced that Beximco Pharmaceuticals Limited, one of Bangladesh's leading pharmaceutical manufacturers, had formally launched five high-tech anti-AIDS drugs. This was the first time a local company had manufactured such drugs using its own resources and technological know-how. The drugs in question were Diavix (zidvudine + lamivudine), Avifanz (efavirenz), Avifix (nelfinavir), Trioix (lamivudine + zidovudine + nevirapine) and Avilam (lamivudine), all available in tablet form. [28]

5.45 As stated in the U.S. Department of State Report 2003 "The law provides for equal treatment and freedom from discrimination for persons with disabilities; however, in practice, persons with disabilities faced social and economic discrimination. The Bangladesh Persons with Disability Welfare Act provides for equal rights for disabled persons. The act focuses on prevention of disability, treatment, education, rehabilitation and employment, transport accessibility and advocacy. For the first time, the Government appointed a few disabled persons to official positions during the year [2003]. According to the National Forum of Organizations Working With the Disabled, an umbrella organization consisting of more than 80 NGOs working in various fields of disability, approximately 14 percent of the country's population had some form of disability. The economic condition of most families limited their ability to assist with the special needs of a person with disabilities, and superstition and fear of persons with disabilities sometimes resulted in their isolation." [2c] (p18)

[Return to contents](#)

Educational System

5.46 After independence in 1971, the Bangladesh Constitution recognised the need for basic education as a fundamental human right. Provision of such education was thought to be a state responsibility and the state nationalised 36,000 private schools. [26]

5.47 The education system in Bangladesh comprises three branches. Bangla schools are the state schools where Bangla is the main medium of teaching. Alongside the national Bangla education system there are also the privately run English medium and the Religious schools. Students have the right to attend the English medium schools where all the subjects are taught in English except for the Bangal courses and religious subjects, which are taught in Bangla and Arabic. [27] The religious branch, or the Madrasas, is organised by the Islamic communities and offers an alternative Islamic education in Arabic. [26]

5.48 The government provides free schooling for children of both sexes for eight years. Primary education is compulsory and begins at six years of age and lasts for five years. [26] Secondary education begins at the age of eleven and lasts for seven years. [1b]

5.49 In 1999, the indigenous people's association, representing the Santal minority, opened Bangladesh's first school teaching the national curriculum in the Santal language. [1b]

5.50 There are 11 state universities, including an agriculture university, and one engineering and technology university. There is also an Islamic university. [1b]

5.51 According to the U.S. Department of State Report 2003 “Literacy rates were approximately 29 percent for women, compared with 52 percent for men.” [2c] (p16)

[Return to contents](#)

6. HUMAN RIGHTS

6.A Human Rights Issues

Overview

6.1 Bangladesh is a party to a number of United Nations international human rights treaties. These are: the International Covenant on Economic, Social and Cultural Rights (CESCR), date of accession 5 October 1998; the International Covenant on Civil and Political Rights (CCPR), date of accession 7 September 2000; the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), date of accession 11 June 1979; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), date of accession 6 November 1984; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW-OP), date of ratification 7 September 2000; the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), date of accession 5 October 1998; the Convention on the Rights of the Child (CRC), date of ratification 3 August 1990; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OP-AC), date of ratification 7 September 2000; the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC-OP-SC), date of ratification 7 September 2000; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC), signatory only 7 October 1998. [8a]

6.2 According to the U.S. Department of State Report 2003 “The Government's human rights record remained poor, and it continued to commit numerous serious abuses. Security forces committed a number of extrajudicial killings. The police; the paramilitary organization, Bangladesh Rifles (BDR); the auxiliary organization, Ansar; and the army used unwarranted lethal force. The police often employed excessive, sometimes lethal, force in dealing with opposition demonstrators, and the police routinely employed physical and psychological torture during arrests and interrogations. Prison conditions were extremely poor and were a contributing factor in some deaths in custody. Police corruption remained a problem. Nearly all abuses went unpunished, and the climate of impunity remained a serious obstacle to ending abuse and killings. In February [2003], Parliament adopted legislation shielding security forces from any legal consequences of their action, which included numerous abuses during the countrywide anti-crime drive from October 16, 2002, to January 9 [2003]. In the few instances where charges were levied, punishment of those found guilty was predominantly administrative. Violence,

often resulting in deaths, was a pervasive element in the country's politics. Supporters of different political parties, and often supporters of different factions within one party, frequently clashed with each other and with police during rallies and demonstrations. Press reports of vigilante killings by mobs were common.” [2c] (p1-2)

6.3 The Kyodo News Service reported on 31 December 2003 that “A total of 436 people were killed and 6,281 others injured this past year [2003] in political violence and incidents of human rights violations across Bangladesh, according to a report released Wednesday by the human rights group Odhikar. The report showed that 90 people died in jails and police custody while 81 others were killed at the hands of law-enforcing agencies. It said that a total of 477 children were killed, 339 injured, 494 raped, 308 abducted and 46 arrested across the country during the outgoing year [2003]. In addition, some 61 children fell victims to acid attacks and 130 others to trafficking while 101 committed suicide. A total of 1,336 children and women were raped, of whom 142 were killed after being raped and 17 committed suicide. The report revealed that a total of 337 people fell victims [sic] to acid throwing and 384 to dowry. Of the total, 261 were killed and 85 others were tortured. Apart from these figures, 65 journalists were injured, 19 arrested, 41 assaulted and two abducted, the group said. In the Chittagong Hill Tracts, a total of 43 people were killed, 99 injured, 77 arrested, 154 kidnapped and 21 raped in the past year [2003], the report said. The group said it compiled the report by picking up articles in national dailies.” [6]

6.4 According to the U.S. Department of State Report 2003 “A wide variety of domestic and international human rights groups generally operated independently and without Government restriction, investigating and publishing their findings on human rights cases. Prominent human rights NGOs included: Odhikar (Rights), Bangladesh Society for the Enforcement of Human Rights, Ain O Shalish Kendro (Law Mediation Center), Shishu Adhikar Forum (Civil Rights Forum), Adibashi Forum (Indigenous Peoples Forum), Bangladesh Rehabilitation Center for Trauma Victims (BRCT), and Naari Pokkho (On Women's Sides), Bangladesh Women Lawyers' Association, Bangladesh Mahila Parishad (Women's Council), and Justice and Peace Commission. While human rights groups were often sharply critical of the Government, they also practiced self-censorship, particularly on some politically sensitive cases and subjects.” [2c] (p15)

6.5 According to an Amnesty International Report entitled “Urgent need for legal and other reforms to protect human rights” dated May 2003 “The failure of successive governments to address human rights violations in a consistent and effective manner points to the desperate need for an independent, impartial and competent human rights watchdog in the country - such as a National Human Rights Commission (NHRC). Human rights defenders and the international community have been urging Bangladeshi governments to set up a NHRC. Both the previous Awami League government and the present BNP government have acknowledged the necessity for its formation, but neither have taken the appropriate action to establish it.” [7a] (p11)

[Return to contents](#)

Torture

6.6 As stated in the U.S. Department of State Report 2003 “The Constitution prohibits

torture and cruel, inhuman, or degrading punishment; however, police routinely employed physical and psychological torture as well as cruel, inhuman, and degrading treatment during arrests and interrogations. Torture may consist of threats and beatings, and the use of electric shock. According to the Bangladesh Rehabilitation Center for Trauma, there were 1,296 victims of torture and 115 deaths due to torture by security forces during the year [2003]. Victims were predominantly from the lowest end of the economic scale. The Government rarely charged, convicted or punished those responsible, and a climate of impunity allowed such police abuses to continue.” [2c] (p4) According to an Amnesty International Report entitled “Torture and impunity”, dated November 2000 “Torture has been widespread under successive governments. Neither governments nor the opposition parties past and present have shown serious determination to confront the practice and prevent it. [7c] (p1) There is a shared consensus amongst human rights defenders in Bangladesh that torture is a product of political corruption, illiteracy, underdevelopment and poverty...Political parties are hardly interested in the violation of the human rights of the people who are not their members. [7c] (p26) Governments in Bangladesh have been keen to maintain old legislation that facilitate torture or to enact new laws which effectively serve the same function. One such legislation is Section 54 of Bangladesh Code of Criminal Procedure (BCCP), 1898 which allows the police to arrest anyone without a warrant of arrest and keep them in detention for 24 hours. [7c] (p22) Other legislation which in practice facilitates torture include the Special Powers Act of 1974 which provides for detention without charge of a prisoner for an indefinite period, and the Public Safety (Special Provisions) Act 2000 which denies certain categories of prisoners the right to appeal for release on bail.” [7c] (p23)

6.7 According to an Amnesty International Report entitled “Urgent need for legal and other reforms to protect human rights” dated May 2003 “Methods of torture have included beating with rifle butts, iron rods, bamboo sticks, or bottles filled with hot water so they do not leave marks on the body, hanging by the hands, rape, “water treatment” in which hose pipes are fixed into each nostril and taps turned on full for two minutes at a time, the use of pliers to crush fingers, and electric shocks.” [7a] (p5)

[Return to contents](#)

Politically-motivated detentions

6.8 According to an Amnesty International press release of 6 September 2002 “Just last week, several hundred activists of the opposition Awami League were detained by the police without an arrest warrant ahead of a general strike called by the Awami League. Some have reportedly been released but a significant number are said to be still detained with the possibility of criminal cases against them.” [7f]

6.9 The U.S. Department of State Report 2003 reports that “In March 2002, Home Minister Altaf Hossain Chowdhury said the Government had released 11,706 persons in politically motivated cases since the BNP came to power in 2001. In April 2002, the PSA Repeal Law came into effect and gave the Government authority to determine which cases filed under the SPA law would be withdrawn and which ones would be pursued.” [2c] (p8)

[Return to contents](#)

Police and Army Accountability

6.10 According to the U.S. Department of State Report 2003 “Security forces were rarely disciplined, even for the most egregious actions. Police were often reluctant to pursue investigations against persons affiliated with the ruling party, and the Government frequently used the police for political purposes. There was widespread police corruption and lack of discipline. Members of the security forces committed numerous serious human rights abuses.” [2c] (p1)

6.11 The Daily Star of Bangladesh reported in November 2003 that “After 25 years in service, 302 police officers from inspectors down were forced into retirement on October 7 in the latest in a spate of massive layoffs and transfers in the department since the government changeover in October 2001...Home Ministry sources said some 12,000 policemen will be recruited – 5,000 to fill the vacancies and rest for the 7,000 new posts to be created...According to police records, 19,622 policemen were punished for corruption and other crimes last year, up from 16,913 in 2001...By contrast 14,069 policemen were rewarded for good performance last year”. [38a]

6.12 A BBC news report of 20 March 2003 stated that “A Bangladeshi military court has found four soldiers guilty of torture and extortion. The four men, along with eight police officers were reported to have carried out the offences during the recent anti-crime drive, Operation Clean Heart...An army statement said a three-member military court delivered the judgement after a week-long trial. The soldiers were also charged with detaining persons illegally. The statement from the Bangladeshi defence forces said that Captain Atiqur Rahman was given a seven-year prison term. Soldiers Mizanur Rahman and Afzalul Alam were given four-year and three-year jail terms respectively. The fourth soldier was sentenced to 89 days in a military prison but will not lose his job. All four members of the Bangladesh Army were charged with breaking military discipline, collecting money forcibly, lying and detaining persons illegally. The accused policemen will be prosecuted in a civil court.” [20f] An article from The Hindu newspaper posted on Global News Wire on 27 February 2003 noted that “Amid angry protests by the Opposition, the Bangladesh Parliament has passed the controversial indemnity bill titled, "Joint Drive Force Indemnity Ordinance 2003" to give legal protection to the army-led anti-terrorism operation. The law gives the joint forces immunity from legal proceedings in civil courts for their actions during the countrywide “Operation Clean Heart” anti-crime drive between October 16, 2002 and January 9, 2003. Mr. Ahmed [the Law Minister] said the indemnity would protect members of the armed forces from facing the civil justice system. At the same time, they would remain under the purview of their own laws.” [21b]

6.13 As noted in a BBC news report of 8 April 2003 “Eight police officers and a police informer in Bangladesh have been jailed for extortion. A special court in the capital Dhaka sentenced the men to four years imprisonment for forcibly obtaining money during an anti-crime drive. The sentences were passed following a brief trial in a special court known as the Speedy Trial Court. All of the men were also fined 10,000 taka (\$167) each. The court heard that the policemen, along with four army personnel, extorted the money during the anti-crime campaign known as 'Operation Clean Heart'.” [20p]

Freedom of Speech and the Media

6.14 The U.S. Department of State Report 2003 notes that “The Constitution provides for freedom of speech and of the press; however, the Government did not respect these rights in practice.” [2c] (p9)

6.15 As stated in the U.S. Department of State Report 2003 “The hundreds of daily and weekly publications provided a forum for a wide range of views. While some publications supported the overall policies of the Government, most newspapers reported critically on government policies and activities...Despite this proliferation of news articles, Reporters Without Borders (RSF) stated that, “Armed rebel movements, militias or political parties constantly endanger the lives of journalists. The state fails to do all it could to protect them and fight the immunity very often enjoyed by those responsible for such violence.” Newspaper ownership and content were not subject to direct government restriction. However, the Government influenced journalists through financial means such as government advertising and allocations of newsprint imported at favorable tariff rates. The Government stated that it considered circulation of the newspapers, compliance with wage board standards, objectivity in reporting, and coverage of development activities as factors in allocating advertising. In the past, commercial firms often were reluctant to advertise in newspapers critical of the Government; however, this appeared no longer to be the case.” [2c] (p9)

6.16 As stated in a BBC news report of 29 August 2002 “Bangladesh's only independent terrestrial broadcaster Ekushey television (ETV) has gone off the air on Thursday after losing a legal battle over its broadcasting rights. A few hours earlier, the country's Supreme Court had ruled that the license issued to ETV had no legal basis...The ruling Bangladesh Nationalist Party and its Islamist allies have been complaining that ETV was biased against them and that in its programmes, ETV sympathised with the opposition Awami League. The ETV management have rejected the allegations, insisting their coverage of news and current affairs has always been balanced and neutral.” [20q]

6.17 An Agence France Presse article of 25 June 2003 confirmed that “The Bangladesh government said Wednesday it was taking steps to give autonomy to state run television and radio, while 29 private channels were seeking approval to go on air...There are currently two private television channels in Bangladesh, Channel 1 and ATN Bangla. The third, National Television (NTV) is set to go on air on July 3 [2003].” [23b]

Treatment of journalists

6.18 According to a report in The Independent of 9 July 2002 obtained via Reuters “There is no abatement in the killing and maiming of journalists and it has become extremely risky for them to expose the doings of the criminals, the anti-social and outlawed elements. The Bangladesh Society for Enforcement of Human Rights (BSEHR) has expressed concern over the torture and repression on three journalists in Khulna...Journalists are victimised by the vested interests, by criminal and underworld

gangs, and sometimes even by the police either acting on their own volition or at the instance of the people in power. The libel law is also used as a weapon against journalists.” [4a]

6.19 According to a Public Statement issued by Amnesty International on 15 March 2002 “The arrest on 13 March 2002 of two staff members of the non-governmental organization, Proshika (“A Centre for Human Development”) has raised serious concern about the Bangladeshi government’s observance of its obligations under international human rights law to ensure the right to freedom of expression. Police arrested Omar Tarek Chowdhury, deputy director of Proshika and Ajharul Hoque, an employee of the organization, on allegations that they had been in possession of “documents” relating to attacks against members of the Hindu minority in Bangladesh. Details of the alleged “documents” have not been made public.” [7h]

6.20 An article on the Reporters sans frontières website of 17 March 2003 stated that “Reporters Without Borders (Reporters sans frontières) today urged interior minister Altaf Hossain Chowdhury to rescind an arrest warrant issued for Shawkat Milton, the correspondent of the daily Janakantha in the southern city of Barisal, who was forced to go into hiding on 12 March [2003] in order to avoid arrest...Milton left his home on 12 March [2003] after learning that the local police had received an arrest warrant from Dhaka. He confirmed to Reporters Without Borders that he went into hiding for fear that he would be arrested. It was not known what charges Milton was facing. Janakantha has recently carried several reports by Milton on this week’s mayoral elections in Barisal in which the candidates include Mujibar Rahman Sarwar, a parliamentary leader of the ruling BNP party and associate of the home affairs state minister. One of Milton’s reports raised question about the methods Sarwar has used in the campaign. These reports annoyed Sarwar and other local BNP leaders, who reacted by calling for Milton’s arrest.” [9b]

6.21 The U.S. Department of State Report 2003 confirms that “Feminist author Taslima Nasreen remained abroad after being freed on bond while criminal charges were still pending against her for insulting religious (Muslim) beliefs. In October 2002, a court sentenced Nasreen in absentia to 1 year in jail for her “derogatory remarks about Islam” in a case filed in 1999 by a JI leader.” [2c] (p11)

6.22 According to the U.S. Department of State Report 2003 “A human rights group stated that over the course of the year [2003], 65 journalists had been injured, including 41 assaults. There had been 10 attempted killings of journalists, 90 had received death threats, 19 had been arrested, 14 had been the target of abusive lawsuits and prosecutions, and 5 had been abducted.” [2c] (p10)

6.23 Reporters Without Borders reported on 27 January 2004 that “An underground Maoist organisation has admitted responsibility for the murder of a BBC stringer and in a letter, apparently from its leader, threatened to kill nine more named journalists in the region. Manik Saha died instantly when a bomb was thrown at his head in a street in Khulna in the country’s south-west on 15 January [2004]. Reporters Without Borders (Reporters sans frontieres) called on the authorities, in particular the interior minister, to continue to explore every avenue to track down and punish Saha’s killers...The journalist’s murder prompted a two-day general strike in Khulna on 16 and 17 January

[2004]. Information minister Tariqul Islam, who went to the town, promised to leave no stone unturned to find and punish those responsible". [9c]

[Return to contents](#)

Freedom of Religion

Introduction

6.24 The U.S. Department of State International Religious Freedom Report 2003 confirms that "Sunni Muslims constitute 88 percent of the population. Approximately 10 percent of the population is Hindu. The remainder of the population mainly is Christian (mostly Catholic) and Buddhist. Members of these faiths are found predominantly in the tribal (non-Bengali) populations of the Chittagong Hill Tracts, although many other indigenous groups in various parts of the country are Christian as well. There also are small populations of Shi'a Muslims, Sikhs, Baha'is, animists, and Ahmadis. Estimates of their populations vary widely, from a few hundred up to 100,000 adherents for each faith. Religion is an important part of community identity for citizens, including those who do not participate actively in religious prayers or services; atheism is extremely rare." [2b] (p1)

6.25 The U.S. Department of State International Religious Freedom Report 2003 confirms that "The Constitution establishes Islam as the state religion but also provides for the right - subject to law, public order, and morality - to practice the religion of one's choice, and the Government generally respects this provision in practice. However, although the Government is secular, religion exerts a powerful influence on politics, and the Government is sensitive to the Muslim consciousness of the majority of its citizens. [2b] (p1) There were no reports of religious prisoners or detainees" [2b] (p4)

6.26 The U.S. Department of State International Religious Freedom Report 2003 notes that "The generally amicable relationship among religions in society contributed to religious freedom; however, the number of Hindu, Christian, and Buddhist minorities who experienced discrimination by the Muslim majority has increased. [2b] (p1) Major religious festivals and holy days of the Muslim, Hindu, Buddhist, and Christian faiths are celebrated as national holidays. [2b] (p2) Persons who practice different religions often join each other's festivals and celebrations, such as weddings. Shi'a Muslims practice their faith without interference from Sunnis." [2b] (p4)

6.27 As noted in the U.S. Department of State Report 2003 "The Government allowed various religions to establish places of worship, to train clergy, to travel for religious purposes, and to maintain links with co-religionists abroad. The law permitted citizens to proselytize. However, strong social resistance to conversion from Islam meant that most missionary efforts by Christian groups were aimed at serving communities that had been Christian for several generations." [2c] (p12)

6.28 According to the U.S. Department of State International Religious Freedom Report 2003 “Family laws concerning marriage, divorce, and adoption differ slightly depending on the religion of the person involved. There are no legal restrictions on marriage between members of different faiths.” [2b] (p2)

6.29 The U.S. Department of State International Religious Freedom Report 2003 notes that “Religion is taught in government schools, and parents have the right to have their children taught in their own religion; however, some claim that many government-employed religious teachers of minority religions are neither members of the religion they are teaching nor qualified to teach it.” [2b] (p2)

[Return to contents](#)

Hindus

6.30 According to the U.S. Department of State International Religious Freedom Report 2003 “There are no financial penalties imposed on the basis of religious beliefs; however, religious minorities are disadvantaged in practice in such areas as access to jobs in government or the military, and in political office. The Government has appointed some Hindus to senior civil service positions. However, religious minorities remain underrepresented in some government jobs, especially at the higher levels of the civil and foreign services...Hindus dominate the teaching profession, particularly at the high school and university levels. Some Hindus report that Muslims tend to favor Hindus in some professions, such as doctors, lawyers, and accountants. They attribute this to the education that the British offered during the 19th century, which Muslims boycotted but Hindus embraced. Employees are not required to disclose their religion, but religion generally can be determined by a person's name.” [2b] (p2)

6.31 As stated in the U.S. Department of State International Religious Freedom Report 2003 “Many Hindus have been unable to recover landholdings lost because of discrimination in the application of the law, especially under the now-defunct Vested Property Act. The Act was a Pakistan-era law that allowed “enemy” (in practice Hindu) lands to be expropriated by the Government. Approximately 2.5 million acres of land were seized from Hindus, and almost all of the 10 million Hindus in the country were affected. Property ownership, particularly among Hindus, has been a contentious issue since partition in 1947. However, in April 2001, Parliament passed the Vested Property Return Act. This law stipulated that land remaining under government control that was seized under the Vested Property Act be returned to its original owners, provided that the original owners or their heirs remain resident citizens. Hindus who fled to India and resettled there are not eligible to have their land returned, and the Act does not provide for compensation for or return of properties that the Government has sold...On November 26, 2002, the Parliament passed an amendment to the Vested Property Act, allowing the Government unlimited time to return the vested properties. The properties are to remain under the control of Deputy Commissioners until a tribunal settles ownership. The amendment also gives the Deputy Commissioners the right to lease such properties until they are returned to their owners. The Government claimed that this provision would prevent the properties from being stolen.” [2b] (p2-3)

6.32 According to the U.S. Department of State International Religious Freedom Report 2003 “Reports of harassment by BNP supporters of Hindus, who traditionally vote for

the AL, preceded and followed the October 2001 election. Reported incidents included killings, rape, looting, and torture. The BNP acknowledged reports of atrocities committed between Muslims and Hindus; however, the BNP claimed that they were exaggerated. The Home Minister was unable to confirm reports that Hindus had fled the country and insisted that there was no link between religion and the violence. He also dismissed allegations that the BNP was linked to the perpetrators. In late November 2001, the High Court ordered the Government to look into and report on attacks on religious minorities, and to demonstrate that it is taking adequate steps to protect minorities. The Government submitted its report to the High Court on August 5, 2002. The report claimed that some of the incidents of post-election violence were not connected to communal relations. It also alleged that some of the reports of violence were fabricated or exaggerated. Since the October 2001 elections, religious minorities reportedly have continued to be targeted for attacks. However, many such reports have not been verified independently. The Government sometimes has failed to investigate the crimes and prosecute the perpetrators, who are often local gang leaders.” [2b] (p3)

6.33 The U.S. Department of State International Religious Freedom Report 2003 recounts that “In November 2001, Principal Gopal Krishna Muhuri of Nazirhat College in Chittagong was killed by unidentified assailants. Following the killing, Hindus staged a violent demonstration, claiming that Muhuri was killed because he was a Hindu. Muhuri's family stated that he was unpopular with the Jammat-i-Islami party because he refused it and other political parties access to the college's campus. It was unclear whether the killing was connected to the attacks against Hindus after the October 2001 elections. In November 2002, police filed a case against 12 persons, including 3 teachers and an accountant at the college. On February 6 [2003], a Chittagong court sentenced four of the accused to death and four to life in prison for their involvement in the murder.” [2b] (p4)

6.34 As outlined in the U.S. Department of State International Religious Freedom Report 2003 “Intercommunal violence caused many Hindus to emigrate to India between 1947 and 1971 and continued on a smaller scale throughout the 1980s. Since the 1991 return to democracy, emigration of Hindus has decreased significantly, which generally can be attributed to the significant reduction in the Hindu population over the last 30 years. In recent years, emigration has been primarily motivated by economic and family reasons. Nevertheless, incidents of communal violence continue to occur.” [2b] (p4)

6.35 According to the U.S. Department of State Report 2003 “On November 19 [2003], 11 members of a Hindu family burned to death after arsonists set ablaze their home near the port city of Chittagong. The local human rights NGO Odhikar reported that the attack was not robbery, as police had initially claimed, but a planned assault on the family because of its Hindu faith. According to Odhikar, police took 3 hours to respond”. [2c] (p13)

[Return to contents](#)

Ahmadis

6.36 As noted in a BBC news report dated 10 October 1999 “The Ahmadiyas [Ahmadis] say they are Muslims but differ from other Islamic groups in that they believe that the

founder of their movement, Hazrat Mirza Ghulam Ahmed, was the messiah. They also believe that Jesus did not die on the cross but instead died of natural causes in Kashmir and is buried there. Fewer than 100,000 Bangladeshis are estimated to belong to the sect.” [20b]

6.37 According to the U.S. Department of State International Religious Freedom Report 2003 “In the past, members of the Ahmadi sect, whom many mainstream Muslims consider heretical, were the target of attacks and harassment. An Ahmadiya mosque in Kushtia was captured by mainstream Muslims in 1999 and remained under police control for approximately 3 years, preventing Ahmadiyas from worshipping. In August 2002, the Ahmadiyas regained control of their mosque.” [2b] (p5)

6.38 The U.S. Department of State Report 2003 reported that “In a separate incident of communal violence on November 22 [2003], police stopped a mob of about 5,000 attempting to destroy an Ahmadi mosque in Dhaka. After the attack, police filed two cases for destruction of police property against several activists associated with a nearby mosque, and a senior police official condemned the attack and said that destruction of Ahmadi property was against the law. In December [2003], Anti-Ahmadi activists killed a prominent Ahmadi leader in Jessore and announced a January 23, 2004 deadline for the Government to declare Ahmadis non-Muslims or face serious agitation.” [2c] (p13)

6.39 On 9 January 2004 Agence France Presse reported that “Bangladesh banned publications of the Ahmadiyas, a minority Muslim movement, from Friday after pressure from rival Islamic hardliners, officials said. The home ministry banned the sale, distribution and possession of publications by the Ahmadiyas, estimated to number 100,000 in Bangladesh. “The ban was imposed in view of objectionable materials in such publications that hurt or might hurt the sentiments of the majority Muslim population”, a home ministry statement said late Thursday. The Ahmadiya movement was founded in the late 19th century in what is now Pakistan with the professed goal of reviving Islam by stressing non-violence and tolerance. The sect breaks sharply with mainstream Islam by not believing Mohammed was necessarily the last prophet. The Daily Star newspaper said the ban on Ahmadiya literature had been urged by the Islami Oikya Jote, a hardline party that is junior partner in Prime Minister Khaleda Zia’s coalition government...Abdul Awwal, a spokesman for the Ahmadiya community in Bangladesh, accused the government of bowing to “religious terrorism”.” [23f]

[Return to contents](#)

Christians

6.40 As related in the U.S. Department of State International Religious Freedom Report 2003 “In June 2001, in Baniachar, Gopalganj District, a bomb exploded inside a Catholic church during Sunday Mass, killing 10 persons and injuring 20 others...A judicial commission was formed in December 2001 to investigate the Baniachar bombing. In September 2002, the commission submitted its report to the Government. The commission's final report blamed Sheikh Hasina and other AL party members for six of the seven bomb attacks that occurred in 1999, 2000, and 2001, including the June 2001 attack. However, two of the three commission members dissented, alleging that the head of the commission, Judge Abdul Bari Sarkar, had inserted his personal views

Bangladesh April 2004

in the final report.” [2b] (p4)

[Return to contents](#)

Freedom of Assembly and Association

6.41 According to the U.S. Department of State Report 2003 “The Constitution provides for freedom of assembly, subject to restrictions in the interest of public order and public health; however, the Government frequently limited this right. Section 144 of the CrPC [Criminal Procedure Code] allows the Government to ban assemblies of more than four persons. According to 1 human rights organization, the Government imposed 58 such bans during the year [2003]. The Government sometimes used bans to prohibit rallies for security reasons, but many independent observers believed that such explanations usually were a pretext. Supporters of the ruling party frequently scheduled their own rallies at the same venue and time, thus providing the Government a basis for imposing a ban...The Constitution provides for the right of every citizen to form associations, subject to "reasonable restrictions" in the interest of morality or public order, and the Government generally respected this right. Individuals were free to join private groups.” [2c] (p11)

[Return to contents](#)

Employment Rights

6.42 As noted in the U.S. Department of State Report 2003 “The Constitution provides for the right to join unions and, with Government approval, the right to form a union; however, the Government did not always respect this right in practice. The total work force was approximately 58 million persons, of whom 1.8 million belonged to unions, most of which were affiliated with political parties...According to the law, a workplace must have 30 percent union participation for union registration. Would-be unionists technically are forbidden to engage in many activities prior to registration, and legally are not protected from employer retaliation during this period. Labor activists protested that this requirement severely restricted workers' rights to organize, particularly in small enterprises and the private sector, and the International Labor Organization (ILO) requested the Government to amend the 30 percent provision...Civil Service and security force employees were forbidden to join unions because of their highly political character. Teachers in both the public and the private sector were not allowed to form trade unions.” [2c] (p19)

6.43 According to the U.S. Department of State Report 2003 “The right to strike is not recognized specifically in the law, but strikes were a common form of workers' protest and are recognized as a legitimate avenue for addressing unresolved grievances in the Industrial Relations Ordinance of 1969. In addition, opposition political parties used general strikes to pressure the Government to meet political demands...Wildcat strikes were illegal but occurred, and wildcat strikes in the transportation sector were particularly common.” [2c] (p20)

6.44 As stated in the U.S. Department of State Report 2003 “Collective bargaining by workers is legal on the condition that unions legally registered as collective bargaining

agents by the Registrar of Trade Unions represent them...The Essential Services Ordinance permits the Government to bar strikes for 3 months in any sector it declares essential...The Government is empowered to prohibit a strike or lockout at any time before or after the strike or lockout begins and to refer the dispute to the Labor Court. “ [2c] (p20)

6.45 The U.S. Department of State Report 2003 notes that “The law sets a standard 48-hour workweek with 1 day off mandated. A 60-hour workweek, inclusive of a maximum 12 hours of overtime, was allowed. The law was enforced poorly.” [2c] (p22)

6.46 According to the International Labour Organization website “In the field of labour legislation, the various minimum ages, fixed by different labour laws regarding children's admission to work makes it difficult to implement and enforce the labour laws. The Factories Act of 1965, for instance, set the minimum age at 14 years for admission to work in any factory. The Employment of Children Act of 1938 set the minimum age at 15 years while the Shops and Establishment Act of 1965 set the minimum age at 12 years for admission to work. Thus, to bring uniformity in the laws, the Government has prepared a new Labour Code, which currently awaits approval by the Parliament. The draft Labour Code has prescribed a uniform minimum age of 14 years for admission to work which is in conformity with ILO Minimum Age Convention, 1973 (No.138).” [32]

6.47 As noted in the U.S. Department of State Report 2003 “The Constitution prohibits forced or bonded labour, including by children; however the Government did not enforce this prohibition effectively.” [2c] (p20)

People Trafficking

6.48 As noted in the U.S. Department of State Report 2003 “The law prohibits trafficking in persons; however, trafficking was a serious problem. There was extensive trafficking in both women and children, primarily to India, Pakistan, and destinations within the country, mainly for the purpose of prostitution and in some instances for labor servitude. Some children also were trafficked to the Middle East to be used as camel jockeys. During the year [2003], police made arrests for trafficking in young boys to the Middle East, and at year's end [2003] these cases were pending before the courts...Trafficking in children for immoral or illegal purposes carries the death penalty or life imprisonment. However, few perpetrators were punished...The exact number of women and children trafficked was unknown, but human rights monitors estimated that more than 20,000 women and children were trafficked annually from the country for the purpose of prostitution. [2c] (p22) Trafficking in women for purposes of prostitution carries a sentence varying from 10 years in prison to the death penalty.” [2c] (p23)

6.49 As recounted in the U.S. Department of State Report 2003 “The Government developed a set of policies and plans regarding the trafficking issue, and initiated a program across a number of ministries to address the problem. Arrests and prosecutions increased significantly, and the Government launched a major national anti-trafficking prevention campaign to increase awareness of the problem among vulnerable groups. Nevertheless, the Government's capacity to address this issue remained limited. Government projects included conducting awareness campaigns,

research, lobbying, and rescue and rehabilitation programs. While the Government provided support for returning trafficking victims, government-run shelters were generally inadequate and poorly run.” [2c] (p22)

6.50 The U.S. Department of state Report 2003 notes “Besides law enforcement agencies, a number of NGOs recovered and assisted victims of trafficking. The BNWLA rescued 61 trafficking victims, and 76 alleged traffickers were arrested and detained in prisons, and 16 traffickers were convicted during the year [2003].” [2c] (p22)

[Return to contents](#)

Freedom of Movement

6.51 According to the U.S. Department of State Report 2003 “The Constitution provides for the right of free movement within the country, foreign travel, emigration, and repatriation. In practice, the Government generally respected these rights, allowing citizens to move freely within the country and to travel abroad, to emigrate, and to repatriate. There were, however, instances in which the Government restricted these rights...The movement of major opposition political leaders was restricted occasionally, and the Government did little to assist them.” [2c] (p13)

6.52 The U.S. Department of State Report 2003 states that “The Bangladesh Constitution does not provide for the granting of asylum and refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement but did not routinely grant refugee or asylum status. The Government granted temporary asylum to individual asylum seekers whom the UNHCR interviewed and recognised as refugees on a case-by-case basis. The Government also generally co-operated with the UNHCR and other humanitarian organisations in assisting refugees.” [2c] (p14)

Authentication of Documents

6.53 Information received from the British High Commission in Dhaka in December 2003 was that “Forged and fraudulently obtained documents are readily available in Bangladesh and are frequently submitted in support of entry clearance applications. Such documents include forged passports, birth, death and marriage certificates, bank statements (local and British), business plus employment related documents and educational certificates. Maintenance of official records in Bangladesh tends to be haphazard. Most records are kept in hand written logs, with very little in the way of computerised records. There is no local equivalent of the UK Police National Computer system. Instead, records are kept at local police stations with no national link. With regard to birth and death certificates, and marriage and divorce certificates, local municipal corporations or union councils, and local registrars issue these respectively. As with police records, there is no national link up between any of these records. Most banks have similar poor maintenance of accounts, and most rural branches lack computers or even telephones.” [11g]

[Return to contents](#)

6.B HUMAN RIGHTS - SPECIFIC GROUPS

Ethnic Groups

Biharis

6.54 According to the U.S. Department of State Report 2003 “Approximately 300,000 Bihari Muslims live in various camps throughout the country. They have been in the camps since 1971 awaiting settlement in Pakistan. Biharis are non-Bengali Muslims who emigrated to what formerly was East Pakistan during the 1947 partition of British India. Most supported Pakistan during the country's 1971 War of Independence. They later declined to accept citizenship and asked to be repatriated to Pakistan. The Government of Pakistan historically has been reluctant to accept the Biharis. On May 5 [2003], 10 Bangladesh-born Bihari residents of Geneva Camp were granted voting rights when the High Court declared them citizens.” [2c] (p13)

6.55 As stated in the U.S. Committee for Refugees website “The Biharis are Muslims who originated in what is now India's state of Bihar. In 1947, at the time of partition, they, along with millions of other Muslims, moved to East Pakistan (today's Bangladesh). Unlike the majority of those other Muslims, however, the Biharis were not Bengali-speakers, but Urdu-speakers with closer links to Muslims who moved to West Pakistan (today's Pakistan). Between 1947 and 1971, as citizens of greater Pakistan, the Biharis enjoyed the same rights as other residents of East Pakistan and lived amicably alongside the Bengali speaking majority.” [37]

6.56 As stated in an article in the Dhaka Courier dated 5 May 2000 “During an official visit of Begum Zia to Pakistan in August 1992, an agreement was signed between the two governments to take back 3,000 stranded Pakistani families from Bangladesh to Pakistan. The repatriation process began in early 1993. But after the repatriation of only 325 families, Pakistan on the plea of fund constraint suspended the process.” [12c]

6.57 Information from the Canadian Immigration and Refugee Board in January 1997 was that “They [Biharis] have not yet been granted Pakistani citizenship, and although they can apply for Bangladeshi citizenship, many continue to await repatriation to Pakistan.” [3d] (para 3.4.2)

6.58 An undated report entitled “A Forsaken Minority: The Camp Based Bihari Community in Bangladesh” issued by the Refugee and Migratory Movements Research Unit, Dhaka states that “The legal status of the Biharis has been the subject of a major controversy. Although there is a general perception that Biharis are Pakistanis, Biharis appear to be eligible under the laws of citizenship of Bangladesh. Article 3(d) of the Bangladesh Citizenship Act, 1951 provides citizenship eligibility criterion. It states that “who before the commencement of this Act migrated to the territories now included in Bangladesh from any territory in the Indo-Pakistan sub-continent outside those territories with the intention of residing permanently in those territories”. Article 2 of the Bangladesh Citizenship (Temporary Provisions) Order, 1972 stipulates: “who or whose

father or grandfather was born in the territories now comprised in Bangladesh and who was a permanent resident of the territories now comprised in Bangladesh on the 25th March 1971, and continues to be so resident;" or "who was a permanent resident of the territories now comprised in Bangladesh on the 25th day of March 1971, and continues to be so resident and is not otherwise disqualified for being a citizen by or under any law, for the time being in force." Under such broad sweep of these laws everyone residing permanently before 25 March 1971, including the Biharis, is entitled to Bangladesh citizenship. Article 2B of the Bangladesh Citizenship (Temporary Provisions) Amendment Ordinance 1978, however, contains a disqualification clause which states that a person shall not be qualified to be a citizen of Bangladesh if he "owes, affirms or acknowledges, expressly or by conduct, allegiance to a foreign state, or...". Perhaps the most noteworthy judgements pertaining to citizenship of Bangladesh were passed with respect to [the] Bangladesh vs. Professor Golam Azam Case. The Appellate Division judgement made some important observations "There is no power under Article 3 denuding a person of his citizenship for the offence of collaboration with the Pakistan Occupation Army...Article conferred citizenship on a body of persons by legal fiction, not by the Government or any other executive authority, but by the legislature....it is not a power in the hands of the Government to 'cancel' a person's citizenship or to review one's citizenship under Article 2.". The above judgements establish the fact that under Bangladesh citizenship law Biharis are entitled to Bangladeshi citizenship. Their "option" to go Pakistan, collaboration with the Pakistan occupation army and their persistent demand for repatriation to Pakistan are not sufficient grounds for denying their right to Bangladeshi citizenship" [31] (p12-14)

6.59 As stated on the U.S. Committee for Refugees website "Impatient and unhappy with life in the camps, thousands of Biharis have moved to Pakistan on their own. Others have moved out of the camps and are living and working alongside local people...Conditions in the camps are wretched. Most of the Biharis live in one-room houses built by the government in 1971, or in apartment buildings taken over by the government to house them...Most Bihari children do not attend school...Sending children to schools outside the camps is prohibitively expensive for most Biharis. Although some camps have schools, students' families must pay teacher salaries and buy all school materials, which most families cannot afford." [37]

6.60 The U.S. Committee for Refugees website notes "Ironically, the Biharis are not technically "refugees" either. They have not been persecuted, nor do they have reason to fear persecution, in their "home" country, Pakistan. In theory, they could safely live there. They are not at risk in Bangladesh either. However, as "Pakistanis", they do not have the privileges and benefits accorded Bangladesh citizens, and many Bangladeshis still regard them as unwelcome foreigners. Since the Biharis face many of the same problems as refugees, USCR includes the Biharis among populations it considers to be in "refugee-like circumstances"...The traditional Bihari leadership maintains that the Biharis still want to move to Pakistan. It continues to demand that Pakistan permit and assist them to move there, and that Bangladesh and the international community pressure Pakistan to honor its obligations toward the Biharis. However, many Biharis clearly are more concerned with how they live than where they live, and have a more pragmatic attitude toward moving to Pakistan. Bihari groups advocating local integration have become active, and many individual Biharis say that they do not want to move to Pakistan, but to live more normal lives in Bangladesh, the only home they have ever

known.” [37]

[Return to contents](#)

The Tribals of the Chittagong Hill Tracts

6.61 The main tribal groups living in the Chittagong Hill Tracts (CHT), the mountainous region in the east of the country, are the Chakmas, Moghs, Tripuras and Mrus. Members of these tribes identify with the Burmese people and the majority are Buddhists. [3a]

6.62 As recounted in Europa World Year Book 2002, Volume 1 “In December 1997 the Bangladesh Government signed a peace agreement with the political wing of the Shanti Bahini ending the insurgency in the Chittagong Hill Tracts. The treaty offered the rebels a general amnesty in return for the surrender of their weapons and gave the tribal people greater powers of self-governance through the establishment of three new elected district councils (to control the area’s land management and policing) and a regional council (the chairman of which was to enjoy the rank of state minister). The peace agreement, which was strongly criticized by the opposition for representing a ‘sell-out’ of the area to India and a threat to Bangladesh’s sovereignty, was expected to accelerate the process of repatriating the remaining refugees from Tripura (who totalled about 31,000 at the end of December 1997). According to official Indian sources, only about 5,500 refugees remained in Tripura by early February 1998. By the end of 2000 most of the Chakma refugees had been repatriated, the district and regional councils were in operation, and a land commission had been established...In June [2001] it was reported that rioting in the Chittagong area had caused a new flow of refugees to Tripura. Following the accession to power of the BNP-led alliance in October [2001], there were reports of thousands of members of Buddhist, Christian and Hindu minorities fleeing to Tripura.” [1a] (p640)

6.63 As stated in the U.S. Department of State Report 2003 “Tribal people have had a marginal ability to influence decisions concerning the use of their lands. The 1997 Chittagong Hill Tracts (CHT) Peace Accord ended 25 years of insurgency in the CHT, although law and order problems and accusations of human rights violations continued. The Land Commission that was to deal with land disputes between tribal individuals and Bengali settlers lacked a legal basis until 2001 and did not function effectively in addressing critical land disputes. Tribal leaders also expressed disappointment at the lack of progress in providing assistance to those who left the area during the insurgency.” [2c] (p18)

6.64 According to the U.S. Department of State Report 2003 “Extortion and kidnapping for ransom were rampant in the CHT...In 2002, a mission comprising government representatives and donor agencies under the coordination of the United National Development Program carried out an 11-day assessment of the CHT security situation and the possibility of renewed development assistance. In its report, the mission said kidnappings and extortion of development workers had continued, mostly due to regional party conflicts and extortion rackets. The mission report further stated that the security situation throughout most of the region was good enough to resume development assistance. However, tribal and non-tribal differences, unresolved issues

relating to land, elections, and the law and order situation all continued to create tension and the potential for conflict.” [2c] (p18)

[Return to contents](#)

Rohingyas

6.65 According to the U.S. Department of State Report 2003 “Since 1992, approximately 236,000 Rohingya (Muslims from the northern Burmese state of Arakan) have been repatriated voluntarily to Burma. An additional 22,700 have left the camps and are living among the local citizens. More than 19,000 refugees remained in 2 camps administered by the Government in cooperation with the U.N. High Commissioner for Refugees (UNHCR). Beginning in 1999, the UNHCR has urged the Government to allow any refugees who could not return to Burma to be allowed to work in the country, benefit from local medical programs, and send their children to local schools. The Government continued to refuse these requests, insisting that all Rohingya refugees must remain in the camps until their return to Burma. Refugees were forced to return to Burma where they fear persecution. There was a pattern of abuse of refugees. There were also claims of discrimination from the local population towards the Rohingya. The rate of refugee repatriation accelerated dramatically with 3,231 refugees being returned to Burma during the year [2003].” [2c] (p13)

6.66 According to the March 2002 Médecins Sans Frontières (MSF) Report entitled “10 Years for the Rohingya Refugees in Bangladesh” “For 10 years running, the majority of the Rohingya refugees have been malnourished. In a closed-camp setting, the refugees still do not have enough food. Today, 58 percent of the refugee children and 53 percent of the adults are chronically malnourished. [29] (p12) Despite its nutritional setbacks, the overall health status of the refugees is stable. What remains concerning is that the predominant health problems are related to the substandard living conditions in the camp... The mortality rate in the camps remains low, although neo-natal deaths in recent years account for the highest number of deaths... In Nayapara camp, MSF runs in- and out-patient treatment departments, therapeutic and supplementary feeding centres, reproductive health programmes, health and hygiene promotion sessions, a microscopy laboratory, and water and sanitation activities. In Kutupalong camp, Concern, an Irish NGO, is responsible for health and nutrition, sanitation, non-food items distribution, food ration monitoring, primary education, non-formal adult education, and seed and poultry distribution. The target populations for both MSF and Concern are children under 10 years of age, pregnant and lactating women, and women of child-bearing age. [29] (p15) Those refugees not in the NGOs’ target population – the over-10-year-olds and non-pregnant/lactating women – can seek care at the health facilities provided by the Ministry of Health (MOH). [29] (p16) Since arriving in Bangladesh in 1992, the Rohingya refugees have been confined to the camps. Their freedom of movement is restricted, officially prohibiting them from seeking employment, or other activities, outside the camp. However, in reality, a minority of refugees do engage in outside work, and several road-side-type stalls have developed inside the camps (mostly throughout Nayapara).” [29] (p20)

[Return to contents](#)

Women

6.67 According to the U.S. Department of State Report 2003 “Laws specifically prohibit certain forms of discrimination against women, including the Dowry Prohibition Act, the Cruelty to Women Law, and the Women and Children Repression Prevention Act. However, enforcement of these laws was weak. The Women and Children Repression Prevention Act provides special procedures for persons accused of violence against women and children. The law calls for harsher penalties, provides compensation to victims, and requires action against investigating officers for negligence or willful failure in duty. An amendment to this act was passed on July 20 [2003], weakening provisions for dowry crimes and attempting to address the issue of suicide committed by female victims of acts of “dishonor.” [2c] (p16)

6.68 According to the U.S. Department of State Report 2003 “Women remained in a subordinate position in society, and the Government did not act effectively to protect their basic rights...In recent years, female school enrollment has improved. Approximately 50 percent of primary and secondary school students were female. Women often were ignorant of their rights because of continued high illiteracy rates and unequal educational opportunities. Strong social stigmas and lack of means to obtain legal assistance frequently kept women from seeking redress in the courts. Many NGOs operated programs to raise women's awareness of their rights, and to encourage and assist them in exercising those rights. The Government also expanded incentives for female education by making education free for girls up to grade 12 (approximately age 18) and using a stipend system from grades 6 to 12. By comparison, boys received free education up to grade five.” [2c] (p16-17)

6.69 As noted in the U.S. Department of State Report 2003 “Domestic violence was widespread, although violence against women was difficult to quantify because of unreliable statistics and societal inhibitions about reporting such violence. Much of the reported violence against women was related to disputes over dowries. According to human rights organizations, there were 261 dowry-related killings during the year [2003]...Incidents of vigilantism against women-sometimes led by religious leaders (i.e., via fatwas)-at times occurred, particularly in rural areas. These included punishments such as the whipping of women accused of moral offenses.” [2c] (p16)

6.70 According to the U.S. Department of State Report 2003 “The Women Affairs Department ran six shelters, one each in the six divisional headquarters, for abused women and children.” [2c] (p16)

6.71 The U.S. Department of State Report 2003 confirms that “Employment opportunities were greater for women than for men in the last decade, largely due to the growth of the export garment industry in Dhaka and Chittagong. Approximately 80 percent of the 1.4 million garment sector workers were women. Women worked in the agriculture, fisheries, and livestock sectors, as manual laborers on construction projects, and in general manufacturing. Programs extending micro-credit to rural women improved their economic power. Pay was generally comparable for men and women performing similar work.” [2c] (p17)

Rape

6.72 As stated in the U.S. Department of State Report 2003 “The law prohibits rape and physical spousal abuse, but it makes no specific provision for spousal rape as a crime. During the year [2003], 1,336 rapes were reported. Prosecution of rapists was uneven. Many rapes were unreported. In some cases, rape victims committed suicide to escape the psychological aftermath, including social stigma.” [2c] (p16)

6.73 According to the U.S. Department of State Report 2003 “There were no reports of rape in official custody during the year [2003], but 31 cases of rape by either police or other officials were recorded.” [2c] (p2)

Acid Attacks

6.74 As stated in the U.S. Department of State Report 2003 “Acid attacks were a concern. Assailants threw acid in the faces of women and a growing number of men, leaving victims horribly disfigured and often blind. Approximately 337 acid attacks occurred this year [2003]. Over one-half of the victims were female and one-third were children. The most common motivation for acid throwing attacks against women was revenge by a rejected suitor. Few perpetrators of the acid attacks were prosecuted. In March 2002, the Government enacted legislation to control the availability of acid and reduce acid violence directed towards women, but lack of awareness of the law and poor application limited its impact. The new Acid Crime Control Law provides for speedier prosecutions in special tribunals and generally does not allow bail.” [2c] (p16)

[Return to contents](#)

Children

6.75 According to the U.S. Department of State Report 2003 “The Government undertook programs in the areas of primary education, health, and nutrition. Many of these efforts were supplemented by local and foreign NGOs. These joint efforts allowed the country to make significant progress in improving health, nutrition, and education; however, slightly more than one-half of all children were still chronically malnourished. According to human rights groups, 575 children were abducted, nearly 1,300 suffered unnatural deaths, and over 3,100 children fell victim to serious abuses such as rape, sexual harassment, torture, and acid attack during the year [2003].” [2c] (p17)

6.76 As noted in the U.S. Department of State Report 2003 “Because of widespread poverty, many children were compelled to work at a very young age. This frequently resulted in abuse of children, mainly through mistreatment by employers during domestic service and occasionally included servitude and prostitution; this labor-related child abuse occurred at all levels of society and throughout the country...According to a 2002 report published by the Government news agency BSS, there were approximately 400,000 homeless children, of which as many as 150,000 had no knowledge of their parents.” [2c] (p17)

6.77 A report in the Dhaka Courier dated 15 October 1999 noted that “The focus of international concern has mostly been [the] country’s garment industry, a major foreign

exchange earner in which thousands of young boys and girls are allegedly employed by employers...Young boys are also employed in brick-fields, jute mills, motor garages, chemical industries, textile plants, tea plantations, farms, construction, and to make a variety of other products. There are also porters, shoe shining boys, hotel and restaurant employees, domestic servants' rag pickers and so on from amongst the children." [12a]

6.78 A CNN news report of 31 January 2000 stated that "The Bangladeshi parliament passed a law on Sunday clamping down on the widespread torture, mutilation, and sale of women and children, the official BSS news agency said. It introduced stiff penalties for offences including using flammable chemicals, rape, murder, amputating children's limbs to make them more effective beggars, trafficking and kidnapping. The worst crimes were punishable by death. Others carried a prison sentence or heavy fine." [19c]

6.79 An Agence France Presse report of 11 June 2003 stated that "The number of children working both in the formal and informal sectors in Bangladesh is more than 6.3 million, officials said Wednesday....Bhattacharya [Dhaka's International Labour Organisation (ILO) representative] said extreme poverty, rapid growth of population, especially among the poor, and loose enforcement of laws allowing unrestricted access of children into the job market were some of the reasons for trafficking in Bangladesh." [23a]

6.80 The U.S. Department of State Report 2003 states "UNICEF estimated that there were 10,000 child prostitutes working in the country, but other estimates placed the figure as high as 29,000. The minimum age requirement of 18 for legal prostitution commonly was ignored by authorities and circumvented by false statements of age. Procurers of minors rarely were prosecuted, and large numbers of child prostitutes worked in brothels. [2c] (p17) The law stipulated a maximum sentence of life imprisonment for persons found guilty of trafficking a child into prostitution." [2c] (p23)

[Return to contents](#)

Child Care Arrangements

6.81 Bangladesh is a signatory to the UN Convention on the Rights of the Child and the state is thus obliged to ensure proper care, protection, mental and physical treatment of children and regular review of treatment for the child victims of armed conflict, torture, neglect, maltreatment or exploitation. [30]

6.82 According to research carried out by the Bangladeshi human rights group Odhikar in 2001 "The Department of Social Services, under the Ministry of Social Welfare has a major programme named Child Welfare and Child Development in order to provide access to food, shelter, basic education, health services and other basic opportunities for hapless children. There are 73 state orphanages for approximately 9,500 orphan children, three Baby Homes for Abandoned Children with the capacity for 250 babies, one Destitute Children's Rehabilitation Centre for 400 children, one Vocational Training Centre for Orphans and Destitute Children for 100 children, sixty-five Welfare and Rehabilitation Programmes for children with disability for about 1400 children...In many Government run orphanages children are deprived of government grant allocation." [25]

6.83 According to research carried out by the Bangladeshi human rights group Odhikar in 2001 “Investigators of Odhikar, carried out an on-spot investigation at Sir Salimullah Orphanage, on 27 January 2001. It is one of the oldest orphanages in Bangladesh, established in 1909 by Nawab Sir Salimullah, to serve the hapless orphans for the greater welfare of society...Approximately 400 residents are staying here and their boarding, food, clothing and education are all provided and paid for...The age of admission is 6-9 years. The children can stay at the orphanage till they attain 18 years or till they pass the Higher Secondary Certificate exam.” [25]

6.84 According to research carried out by the Bangladeshi human rights group Odhikar in 2001 “There are two correctional services for juvenile offenders. The capacity of these two units is 350 persons. In Bangladesh, however there are no non-governmental or semi governmental correction homes. Most of the persons detained in the correction home are street children...There are approximately 4.5 million street children in Bangladesh.” [25]

[Return to contents](#)

Homosexuals

6.85 According to the International Lesbian and Gay Association (ILGA) website same-sex male and same-sex female relationships are both deemed to be illegal. Section 377 of the Penal Code provides: “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may be extended to ten years, and shall also be liable to fine”. A Bangladeshi lawyer in a statement to the Swedish Embassy in Dhaka stated that “You will notice that the word “homosexual” or “homosexuality” have not been used in the statute. The instances of prosecution under this section is extremely rare. In my twenty years of law practise, I have not known or heard of a case where a person has been prosecuted for or convicted of homosexuality under the aforesaid section. Such a prosecution in fact would be extremely difficult, if not impossible, for lack of witness or evidence”. [24]

6.C HUMAN RIGHTS - OTHER ISSUES

Prosecution of 1975 Coup Leaders

6.86 As outlined in the Europa World Year Book 2002, Volume 1 “On assuming power [in 1996], Sheikh Hasina Wajed had vowed to bring to justice those responsible for the assassination of her father, Sheikh Mujibur Rahman, in 1975. In November 1996, the Jatiya Sangsad voted unanimously to repeal the indemnity law enacted in 1975 to protect the perpetrators of the military coup in that year; the BNP and the Jamaat-e-Islami, however boycotted the vote. The trial of 19 people accused of direct involvement in Sheikh Mujib’s assassination began in March 1997, with 14 of the defendants being tried in absentia...In November 1998 a Dhaka court sentenced to death 15 of the 19 people accused of Mujib's assassination, acquitting the others. Only four of those convicted, however, were in custody in Bangladesh; the 11 others remained fugitives abroad.” [1a] (p638)

6.87 Information obtained from the Canadian Immigration and Refugee Board on 27 February 2002 confirmed that “A 30 April 2001 AFP report stated that the final ruling delivered by a High Court judge upheld a lower court's sentence of the death penalty for twelve of the fifteen former army officers convicted of involvement in the 1975 assassination of former prime minister Sheikh Mujibur Rahman. Three officers who were acquitted in a previous appeal ruling, Lieutenant Colonel Mohiuddin Ahmed, Captain Abdul Mazed and non-commissioned officer Risaldar Moslemuddin, were sentenced to death in this appeal, which commenced on 12 February 2001 as a result of a partially split verdict of an appeal in December 2000. Three accused officers were acquitted in the 30 April 2001 ruling: Major Ahmed Shariful Hossain, Captain M. Kismat Hashim and Captain Nazmul Hossain Ansari.” [31]

6.88 Information obtained from the Canadian Immigration and Refugee Board on 27 February 2002 confirmed that “A 17 February 2002 Daily Star [of Bangladesh] article reported that the hearing for the leave to appeal of the four convicted officers who are in jail would not be held until the Appellate Division of the Supreme Court is restructured.” [31]

6.89 Information obtained from the Canadian Immigration and Refugee Board on 27 February 2002 confirmed that “According to information provided during a telephone interview with a representative of Amnesty International (AI) in Ottawa, the Amnesty International research office in London, which is responsible for evaluating international events to determine whether they are of concern to the organization, has found no indication of bias or unfairness in the trials or appeals of the 15 former military officers accused and/or convicted of the assassination of former prime minister Sheikh Mujibur Rahman, including the ongoing appeals currently before the Supreme Court.” [31]

[Return to contents](#)

ANNEX A: CHRONOLOGY OF EVENTS [200]

1947 - British colonial rule over India ends. A largely Muslim state comprising East and West Pakistan is established, either side of India. The two provinces are separated from each other by more than 1,500 km of Indian territory.

1949 - The Awami League is established to campaign for East Pakistan's autonomy from West Pakistan.

1970 - The Awami League, under Sheikh Mujibur Rahman, wins an overwhelming election victory in East Pakistan. The government in West Pakistan refuses to recognise the results, leading to rioting.

Independence

1971 - Independence of the province of East Pakistan as the People's Republic of Bangladesh was proclaimed on 26 March following Army crack down by the Pakistan Government. Awami League formed the government-in-exile on 17 April with Sheikh Mujibur Rahman, imprisoned in Pakistan, as the President.

1972 - Sheikh Mujibur becomes Prime Minister. He begins a programme of nationalising key industries in an attempt to improve living standards, but with little success.

1974 - Severe floods devastate much of the grain crop, leading to an estimated 28,000 deaths. A national state of emergency is declared as political unrest grows.

1975 - Sheikh Mujibur becomes president of Bangladesh. The political situation worsens. He is assassinated in a military coup in August. Martial law is imposed.

1976 - The military ban trade unions.

1977 - General Zia Rahman assumes the presidency. Islam is adopted in the constitution.

1979 - Martial law is lifted following elections, which Zia's Bangladesh Nationalist Party (BNP) wins.

1981 - Zia is assassinated during abortive military coup. He is succeeded by Abdus Sattar.

The Ershad era

1982 - General Ershad assumes power in army coup. He suspends the constitution and political parties.

1983 - Ershad's proposal that all schools should teach Arabic and the Koran leads to demonstrations. Limited political activity is permitted. Ershad becomes president.

1986 - Parliamentary and presidential elections. Ershad elected to a five-year term. He lifts martial law and reinstates the constitution.

1987 - State of emergency declared after opposition demonstrations and strikes.

1988 - Islam becomes state religion. Floods cover up to three-quarters of the country. Tens of millions are made homeless.

1990 - Ershad steps down following mass protests.

1991 - Ershad convicted and jailed for corruption and illegal possession of weapons. Begum Khaleda Zia, widow of President Zia Rahman, becomes prime minister.

Constitution is changed to render the position of president ceremonial. The prime minister now has primary executive power. Cyclonic tidal wave kills up to 138,000.

Awami League returns

1996 - Two sets of elections eventually see the Awami League win power, with Sheikh Hasina, the daughter of Sheikh Mujibur Rahman, becoming prime minister.

1997 - Ershad is released from prison. The opposition BNP begins campaign of strikes

against the government.

1998 - Two-thirds of the country devastated by the worst floods ever. Fifteen former army officers sentenced to death for involvement in assassination of President Mujibur in 1975.

2000 September - Sheikh Hasina criticises military regimes in a UN speech, prompting Pakistani leader General Musharraf to cancel talks with her. Relations strained further by row over leaked Pakistani report on 1971 war of independence.

2000 December - Bangladesh expels Pakistani diplomat for comments on the 1971 war. The diplomat had put the number of dead at 26,000, whereas Bangladesh insist nearly three million were killed. Bangladesh wants Pakistan to apologise for alleged genocide that it says Pakistani forces were guilty of during the war.

2001 July - Sheikh Hasina steps down and hands power to caretaker government. She was the first prime minister in the country's history to complete a five- year term.

BNP Back in Power

2001 October – Following the most violent election campaign in the country's 30-year history, a BNP-led coalition won an overwhelming victory in the general election. Khaleda Zia once again became Prime Minister. [201] More than 300 international monitors declared the poll to have been free and fair. [1a] [5f]

2001 November - Law repealed which guaranteed lifelong security to former prime minister Sheikh Hasina and her sister Sheikh Rehana.

2002 March - Government introduces law making acid attacks punishable by death.

2002 April - Government approves temporary law that speeds up legal process for dealing with violent crime. Opposition says it will be used to stifle dissent and help establish a one-party state.

2002 June - President Chowdhury resigns after ruling Bangladesh Nationalist Party accuses him of taking an anti-party line.

The opposition Awami League ends its boycott of parliament and attends for the first time since losing the general election of October 2001.

2002 September - Iajuddin Ahmed, a retired professor from Dhaka University, was announced as the new president. [20s]

2002 17 October – “Operation Clean Heart” is launched by the Government in response to criticism over rising crime and deteriorating law and order. This involves the deployment of nearly 40,000 soldiers in all major cities to help restore law and order, arrest “listed criminals” and recover illegal firearms. More than 11,000 people were arrested during the Operation, and between 31 and 40 people died after soldiers detained them.

2003 February – The Joint Force Indemnity Ordinance 2003 is passed by Parliament to give legal protection to the army who took part in Operation Clean Heart.

2003 January to March – Local elections to 4,267 local councils are held. By 17 February 2003, 25 people had reportedly been killed in election-related violence.

2004 January – Bomb attack on a shrine in Sylhet.

2004 January – Three local politicians killed in as many days in Khulna.

[Return to contents](#)

ANNEX B: POLITICAL ORGANISATIONS AND OTHER GROUPS

Awami League

Founded 1949. Currently headed by Sheikh Hasina. Advocates socialist economy and secular state; pro-Indian. [1a]

Bangladesh Jatiyatabadi Dal (Bangladesh Nationalist Party)

Founded 1978 (by merger of groups supporting Ziaur Rahman). [1a] Led by current Prime Minister Khaleda Zia. [20]

Democratic League

Founded 1976. Conservative. [1a]

Freedom Party

Founded in August 1987 by Said Faruq Rahman and Khandakar Abdur Rashid, two of the leaders of the 1975 coup. It is described as right wing and Islamic. It was reportedly formed to oppose the Awami League. The daily publication Millat, edited by Chowdhury Mohammad Faruq, is reported to be a mouthpiece of the Freedom Party. It also has a youth wing called the Jubo Command. [3k]

Ghatak Dalal Nirmul Committee

The Ekatturer Ghatak Dalal Nirmul Committee was formed on 19 January 1992 by 101 prominent members of Bangladeshi society, including retired supreme court judges, professors, veterans of the independence war, artists and journalists. It is "pro-liberation" and "an anti-communal and anti-fundamentalism national-level organisation". It has been working towards "trying the war criminals and establishing human rights, especially of women". The movement seeks to develop a democratic and secular society and has demanded a ban on religious-based and communal political parties. [3g]

Islami Oikya Jote (IOJ) (alternatively Islamic Oikkya Jote)

Radical Islamic. [20] Small party believing in the strict enforcement of Sharia law. It is a member of the ruling coalition led by Khaleda Zia, elected October 2001. [20m]

Jamaat-e-Islami (alternatively Jamat-e-Islami)

Founded 1941 (Islamic fundamentalist). [1a] Opposed to Bangladesh's independence in the 1971 civil war with Pakistan. [4b] The leader of the party Motiur Rahman Nizam is accused of leading a group called Al Badr that allegedly tortured and executed those fighting against Pakistan in the 1971 war. [20m] The party was banned after independence but got its rights back after General Zia (the late husband of Prime Minister Khaleda Zia) allowed them and other fundamentalist parties to enter politics after the first AL-led government had banned them from politics. [4b] Won an unexpected number of seats in the October 2001 election to form part of the ruling BNP-led coalition. [20m] The party promotes the idea of turning Bangladesh into an Islamic republic. The party's conservative definition of Islam includes restrictions on the rights of women and minorities. They have gained support due to the fact that much of the

electorate was not even alive during the 1971 war, and because their rejection of Western values and tough line on law and order and corruption also appeals to some. [20m]

Jatiya Party (National Party)

Founded 1983 as Jana Dal; reorganised 1986, when the National Front (founded 1985) formally converted itself into a single pro-Ershad grouping. Advocates nationalism, democracy, Islamic ideals and progress. [1a] Linked with seven other smaller parties to agitate against the former (AL) government on 15 December 1998. Formed new anti-government alliance on 20 December 1998 with leaders of BNP and JI. [5g] On 30 December 1998 Anwar Hossain Manju, Communications Minister, was sacked from the Jatiya Party's presidium, from the post of its vice-chairman and the party's membership, for violating party discipline and making outrageous statements. [4f] Former Prime Minister Kazi Zafar Ahmed, who was expelled from the party on 5 June 1997, returned to the Jatiya Party. [4i] However in November 1999 he was sentenced in absentia to fifteen years imprisonment for embezzlement. [19b] Gained 14 seats in the October 2001 general election although two other factions of the Jatiya Party also contested – the Jatiya Manju faction who gained one seat and the Jatiya Naziur faction who formed part of the BNP-led coalition. [13]

[Return to contents](#)

STUDENT ORGANIZATIONS

Bangladesh Chhatra League-BCL (Sha-PA)

Affiliated to Awami League. [11c]

Gonotantrik Chhatra League

Affiliated to the Democratic League. [11c]

Islami Chhatra Shibir

Affiliated to Jamaat-e-Islami (Jamaat). [11c]

Jatiya Chhatra Samaj

Affiliated to Jatiya Party. [11c]

Jatiyatabadi Chhatra Dal (JCD)

Affiliated to Bangladesh Nationalist Party. [11c]

PROSCRIBED ORGANIZATIONS

Biplobi Communist Party (before 1971 known as the Communist Party of East Pakistan)

Maoist movement. Fought against both Pakistan army and Awami League during independence struggle. By mid-1970s largely suppressed by State; revived 1980s. [11a]

Purba Bangla Sarbohara Party ('East Bengalis Who Have Nothing')

Radical Maoist movement; emerged during lead-up to independence. Seeks communist

revolution by violent means. Responsible for the assassination of police, officials and merchants. [11a]

Swadhin Bangabhumii Movement ('Free Land of Bengal')

Hindu separatist movement. Founded in Calcutta by former Awami League MP, who fled to India in August 1975. Seeks separate state in south west Bangladesh (where there is a large Hindu minority). Responsible for attempted take-over of Bangladesh High Commission in Calcutta in 1984. [11a]

Shanti Bahini ('Peace Force')

Armed wing of the Parbattya Chittagong Jana Sanghati Samity (PCJSS), a tribal insurgency which operated in the Chittagong Hill Tracts. Founded in 1972 by two brothers, Shantu and Manobendra Larma. Stood for political independence for the Chittagong Hills Tracts, and drew support from Chakma tribes. [11a] However, following the Peace Accord of 2 December 1997, [4c] Shantu Larma reportedly declared an end to the Shanti Bahini. [4e] On 10 February 1998 the Shanti Bahini formally surrendered their arms to the government, marking an end to the 25-year insurgency. [4e] The group is now considered to have disbanded, having surrendered their arms and had criminal cases against them dropped as part of the Peace Accord. [7b]

[Return to contents](#)

ANNEX C: PROMINENT PEOPLE

AHMED Iajuddin

Current president. [20s]

ERSHAD General Hossain Mohammed

Came to power following coup in March 1982; resigned December 1990. Joined Jatiya Party in 1986. [1a]

HASINA Sheikh

The leader of the opposition Awami League. Former Awami League Prime Minister. [1a]

NIZAMI Motiur Rahman

Leader of the Jamaat-e-Islami. [20m]

RAHMAN Sheikh Mujibur (Mujib)

Bangladesh's first Prime Minister; assassinated August 1975. [1a]

RAHMAN Ziaur (General Zia)

Assumed presidency April 1977; assassinated May 1981. [1a]

ZIA Begum Khaleda

Current Prime Minister and leader of the Bangladesh Nationalist Party. [20i]

[Return to contents](#)

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[Return to contents](#)